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LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,
Queen's Park, Toronto, Ontario

Tuesday,
October 15, 1957

JAMES A. MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH, Q.C.	Committee Counsel

MEMBERS:	G. E. Jackson
	Donald C. MacDonald
	Ellis P. Morningstar
	Raymond M. Myers
	Arthur J. Reaume
	H. Leslie Rowntree
	J. W. Spooner
	Albert Wren
	John Yaremko
	Robert Macaulay

APPEARANCES:

Mr. J. B. Metzler	Deputy Minister of Labour
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INTERNATIONAL UNION, UNITED ~~AUTOMOBILE~~,
AIRCRAFT AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA (UAW-CLC)

Mr. George Burt	Canadian Director
Mr. John Eldon	
Mr. Paul Siren	
Mr. Jerry Hartford	
Mr. Richard Courtenay	
Mr. Clifford Pilkey	
Mr. Reginald Screen	
Mr. Tracey Lovering	

THE CHAIRMAN: Gentlemen, it is now eleven o'clock, and although our custom has been to consider a quorum to be a majority of the members of the Committee, and the Committee as constituted by eleven members, I cannot see the advisability of wasting everybody's time awaiting the pleasure of those who choose to be late. If some member of the Committee would be kind enough to move that we consider ourselves a quorum.

MR. MacDONALD: So moved.

THE CHAIRMAN: Moved by Mr. MacDonald and seconded by Mr. Macaulay that we consider ourselves a quorum as presently constituted. All in favour? Thank you, gentlemen.

This morning we are to have a presentation being submitted by the International Union, United Automobile, Aircraft and Agricultural Implement Workers of America (UAW-CLC), and I believe the submission is to be presented by Mr. George Burt, the UAW of Windsor, Ontario, who is the Canadian Director. And with Mr. Burt, we have -- would you gentlemen kindly stand as your names are called? -- Mr. Burt, Mr. John Eldon, Mr. Paul Siren, Mr. Jerry Hartford, Mr. Richard Courtenay, Mr. Clifford Pilkey, Mr. Reginald Screen, and I think Mr. Tracey Lovering.

Will you be presenting the brief, Mr. Burt?

MR. BURT: Yes.

THE CHAIRMAN: The custom we have been following is to read the brief first in its entirety, and then we consider it after it has been read.

MR. BURT: Yes, I understand all have a copy of the brief?

THE CHAIRMAN: Yes. You may sit down if you prefer it.

MR. BURT: Thank you.

---(Mr. Burt reads brief)

THE CHAIRMAN: Thank you very much, Mr. Burt. Now, then, gentlemen, in accordance with our usual procedure in dealing with these submission, may I ask are there any questions arising from page 1 of the submission?

MR. MacDONALD: On page 1 there is one general question I would like to ask, a recurrent theme in presentation of witnesses speaking on behalf of management, has been that whereas twenty years ago labour was weak and there was a necessity for a Labour Relations Act to protect their weaker position to fulfill their role in society generally, that today labour is strong, in fact so strong that it actually is as strong, if not stronger than, management. This is a theme which I think was emphasized by the management in the automobile industry in the presentation last week.

Now, you take the opposite point of view in a pretty strongly worded sentence or two at the end of the first paragraph. I wonder if you would elaborate on that.

MR. BURT: We do not think there is any evidence to show that unions have reached that point. Admittedly, we are stronger than we were twenty years ago, particularly in the industrial union field, but our advancement cannot compare with management, and not only when we have not -- I would put it this way -- we have not reached a point where we have any kind of equality that we would desire to allow us to bargain properly. The very sections of the Ontario Labour Relations Act themselves indicate the power of management and the influence that management has over government thinking.

The very same thing is true in our national Act, which is very closely related, and I know there has been a great deal of publicity given to the fact that unions are getting stronger and stronger. I am speaking for one of the strongest unions in this country, numerically speaking, and in every other way, I guess. We have a strike in Midland with one hundred people that we cannot settle. That is how strong it is. That is how much stronger management is than we are. Here is a poor little management putting out little metal stampings. He has withstood the great power of

UAW since November 22nd, 1956. If we had as much power as has been suggested, I think we could at least come to a point where we could get something done in respect of arbitration and these other things that occur every day of the week.

MR. MACAULAY: How many employees are involved in that strike you refer to?

MR. BURT: One hundred.

MR. MACAULAY: May I ask you this, Mr. Burt: if you were to obtain the amendment that you now advocate in this brief, would you then consider this equality you speak of had been obtained?

MR. BURT: I think I would have to give you a **sort** of hypothetical answer in that I think that is a hypothetical question. Progress never stops whether it is on one side of the table or the other, whether it is in the chambers of the Legislature. I do not know what will happen next year which may require us to make additional submissions. I think our proposals here represent a minimum to give us decent collective bargaining. It should be remembered that regardless of that management still has their prerogative to make decisions. We are not proposing changing that.

MR. MACAULAY: You do not want ---

MR. BURT: I am not proposing we take over management's functions, and all the agreements that I am familiar with have a pretty straight-laced

clause they write right at the start of the agreement outlining their rights. I do not think our proposals are going to give us that kind of equality. What we are hoping for, and if such a thing did come about, and if you accept our amendments and the government then passed it all -- it would be a wonderful thing, wouldn't it? -- what would happen, it would put us in a better position to bargain properly and it would eliminate a great deal of industrial strife.

THE CHAIRMAN: Anything else on page 1, gentlemen? Page 2, Beginning of Recognition?

MR. YAREMKO: I am sorry, Mr. Chairman. I wanted to ask a question on page 1, about midway down the page it says:

"This Act should not be one
"which merely provides restric-
"tions against workers desiring
"to join unions of their choice..."

Where are those restrictions?

MR. BURT: We refer for example to -- we had one -- we have one now before the Labour Relations Board, and I am not going to mention the name of the company. It is a case where the Board has given real recognition to a petition that was signed by a number of employees after we had 70 per cent of those people signed up in the union.

Now, if the Act were amended the way

we propose we would propose restrictions against petitioners, against management who was responsible for taking up these petitions and influencing the workers. Those are the kind of restrictions we say are in the Act which deny the real feeling of the workers. The only redress we have in a case of that kind is to prove to the Board that we should be granted certification without that vote. That is really not a satisfactory way of doing business.

MR. JACKSON: Do you not believe any minority should have a say?

MR. BURT: Certainly, but not to the extent that they supersede completely the decision of the majority. Here is a majority ---

MR. JACKSON: How would they have their say if they did not have a petition?

MR. BURT: We do not think a petition should be recognized to the extent of putting it before the Board. You can have your say in the Legislature, but when the vote is taken you are sunk. You can say it in public; they can go out and say to the public, the way you do in the Legislature: "We don't believe the union should be allowed to come into the plant." But, you see, you are not in the same position, you have not complete freedom here.

MR. JACKSON: Let me go on. Would you then be in agreement for a vote to be taken, a secret

vote being taken where people could voice -- do away with the petition as you suggest -- where the people then could voice their opinion on a vote?

MR. BURT: Yes, providing, of course, a job has not been done on the people of the plant.

MR. JACKSON: By the union or the management?

MR. BURT: By the management.

MR. JACKSON: Why wouldn't you have it both? Let both voice their opinions and then call a vote. We have had that opinion -- we have had that idea put to us, and I am just interested in your theory of no petition and just taking the union majority, which I agree with the majority as being "it". Now, I am asking what do you think of a vote being taken?

MR. BURT: You have an automatic vote. We refer to that in our report where we used to go to the Board with a majority of signed cards, and we indicated that the workers did sign those cards. In fact, their signatures were checked and then we were entitled to certification. Now, as a result of the complaints of some kind -- we do not know why -- that were registered against that, now when a union makes a representation to the Board they have to accompany that petition with a dollar from each, received from each of those people that signed a card. A petitioner can go down there without

anything. He can get the foreman to help him sign that. The superintendent called people into the office and he turned the heat on and so on.

Now, what you say would be perfectly fine if there were no petitions, and a vote was taken, providing there was no management side to turn the heat on the people. We say when we appear before the Board with more than 50 per cent applications for membership in the union which are signed and prove they have been signed properly, then we should be certified.

MR. JACKSON: Regardless of any dissenting voice?

MR. BURT: Dissenters should have their voice. They had their voice. They have already had their voice.

MR. JACKSON: But they should not be recognized?

MR. BURT: I do not think the Board should recognize them. They are recognized in the plant as being that many in the minority.

MR. MYERS: What would be wrong with a secret vote?

MR. BURT: There is nothing.

MR. MYERS: Why shouldn't both sides be able to say whatever they wish?

MR. BURT: They can say whatever they

like.

MR. MacDONALD: Let us take the specific case. You say you came in with 70 per cent of the membership signed up.

MR. BURT: Yes, and paid up.

MR. MacDONALD: Did you have to have a vote in that instance?

MR. BURT: I might say this is a very new example and I do not want to get in a position where I have to refer to it because it is before the Board. It has not been decided on yet.

We did have -- we had 70 per cent of the people signed and paid, and in spite of that a petition is being given recognition by the Labour Relations Board, and that may end up -- I don't know -- it may end up in a vote. If it ends up in a vote with the influence management has had in that plant, and particularly in view of the substantial percentage that has not come from this country -- they are new arrivals in this country -- they might vote against it. It is not a question of minority rights in the respect that these gentlemen here raised it. It is not in that category.

MR. MacDONALD: The point I wanted to raise, an explanation has been given to us by the Board -- Professor Finkelman has very often met with us -- if they have 70 per cent signed up on cards and a petition comes in, they examine any

duplication of names for those on the petition and those who may have signed cards.

If the number involved does not reduce it below 55 you still get your certification automatically. If it reduces it below 55 and there is any doubt in their minds what the other people may want, then they call a vote. Presumably if they reduce it below 45 -- heaven knows what they would do.

MR. BURT: Why should it?

MR. MacDONALD: Your point is management can get in and by a high pressure campaign persuade people to change their minds.

MR. ELDON: If they come to the Board with less than 55, it is a vote anyway. They have to go to the Board with at least 45 per cent. If you go to the Board with less than 55, it is a vote. Now, the corporation lawyers, the corporation lawyers always stated that if the applicant had to put up some money with the card that would mean it was in good faith. Now the Act states if we go there with 55 per cent or more paid up the Board may certify. If we go to the Board with 90 per cent paid up why should the Board now pay any attention to someone who signed the card, who paid his dollar? Why should the Board now take any notice of somebody who says, "I don't want to be recognized by the union." We say he has

paid his dollar, the Board should accept that as evidence that that man wants a union and the Board should discard anything after that.

MR. MacDONALD: All I am presenting to you is the arguments we have to contend with as members of this Committee.

MR. BURT: They say these people should show good faith by paying a dollar and then by showing good faith they give recognition to some so-called unassociated group.

MR. JACKSON: If they paid a dollar, as has been suggested, would you agree with the petition?

MR. BURT: We are not particularly concerned with it. However, we suggest that it should not be necessary.

MR. YAREMKO: You do not believe anyone could have a bona fide change of mind?

MR. BURT: Well, I do, but with the experience I have had, whether it be for the union or against it, generally that change is due to some persuasion by somebody. We admit persuading people to join the union, but management never admit they persuade them to sign a petition. So if you say to me that 70 per cent that was influenced to join the union were influenced by representation of the union, why not say that 60 per cent of the management show up on the petition -- they don't

show up on the petition because they cannot -- but the petitioners that bring it down there, why can't they be on it and say the management ---

MR. MACAULAY: He is out of court the minute he does.

MR. BURT: Yes, but we have to prove that. No investigation by the Board. If the Board puts the onus of responsibility on the union to prove that.

MR. YAREMKO: But nothing happens to you.

MR. MYERS: Why not have a vote and eliminate the dollar? What would be wrong with that?

MR. BURT: There is nothing wrong with it except you have to have an application from somebody for something.

MR. MACAULAY: And a lot of people apply.

MR. BURT: They can now. Anybody can apply.

MR. MACAULAY: Then as soon as anybody makes an application couldn't they request an election?

MR. BURT: We would not agree with that. In the United States I think the requirement is to have 30 per cent of the cards or something like that signed, and then you can get an election. We have no objection to that except that I imagine the

Board would in answering questions right now -- this is really one you should direct to the Board. The representatives of the Board would probably say we are going to be in a fine mess for any Tom, Dick or Harry could say I have joined a union and there are three of us and we want an election. We say when 51 per cent of the people say they want a union that should be automatic certification. The minority, they have their voice in the plant; they have the support of management.

MR. MacDONALD: What about the automatic election with 51 per cent?

MR. MYERS: Or even 20 per cent?

MR. MacDONALD: What about the automatic election instead of automatic certification?

MR. BURT: I don't know what you mean.

MR. MACAULAY: You know what you mean by automatic certification?

MR. BURT: You have a yardstick for automatic certification.

MR. MACAULAY: Why not use the same yardstick for automatic election?

MR. ELDON: We had that, but the corporation lawyers changed it. Before the dollar there was never any certification. We went with 100 per cent signed up. It was always the corporation lawyers objected to that, and members of the Committee are advocating now that they come back to

the practice that the employer objected to.

MR. MACAULAY: We do not care what they are objecting to.

MR. MYERS: Why would they object?

MR. ELDON: They said anybody would sign a card if he didn't have to put up any money. We had that. We had that. The employers killed it.

MR. YAREMKO: We want to get your present views.

MR. MACAULAY: We want your opinion.

MR. ELDON: You are asking my opinion with a great deal of emphasis too. You are doing more than just asking an opinion. In my opinion these members of the Board, with all due respect ---

MR. MACAULAY: We are^a/very enthusiastic group, sir.

MR. ELDON: We will give you the names of some corporation lawyers and you can get their replies.

MR. MACAULAY: You are here as a witness and we want to ask you the questions.

MR. MacDONALD: Part of our trouble here, I think, is we had one of those lawyers last week and he wanted a vote.

MR. JACKSON: He wanted certification.

MR. BURT: He can have a vote providing we do not have to prove a majority two or three

times the way it is now. We think proving it once is enough.

MR. JACKSON: The reason we are asking these questions, in the brief submitted by the Canadian Automobile Chamber of Commerce it says:

"Therefore we submit it is desirable that the Labour Relations Act be amended to provide that before granting certification a government-supervised secret vote be taken in every instance where proper application has been made."

They add in there:

"Supported by evidence of the required minimum percentage of the membership of the union."

Now, it is for that reason we are asking these questions.

MR. BURT: What they suggest is that in every case there be a vote regardless, if unions come down with \$5 a day, we will settle with 99 per cent paid up. We so indicate to the Board, we prove to the Board there is no petition to the contrary, there is no other union on the scene, but they propose a vote.

MR. JACKSON: They propose a vote in all instances.

MR. BURT: And I can understand that. They have a second crack at their employees between the time we make our application and the time we prove we have 90 per cent. They haven't got much time under the present regulation because we would be certified with a vote, but this way they can drag it out and you have to have a hearing. You have to have a list of the employees for voting purposes, and in the meantime the company then goes to work on the 90 per cent, and the voting day rolls around and you may have only 50. That is the problem.

MR. MYERS: Why wouldn't it express the will of the employees to have a secret vote even if it did take longer?

MR. BURT: The elections under this Act are not the same kind of election you gentlemen are lucky enough to pull through with. Your people can go to the polls and if there is one sign of interference, if you have a good machine and you have a guy there at the polling booth and somebody is interfering with your election, somebody is going to turn him in and all kinds of dire consequences will happen to him.

MR. MYERS: Would that happen here?

MR. BURT: You don't get it here.

MR. JACKSON: It would be a very serious change, I would agree, and I would, for one, take

exception to the gentleman on the right who says we are enthusiastic about our approach to these questions. We are enthusiastic because to whom could we address our questions better than to you who have knowledge in the unions and knowledge how this thing works. And our problem here is we have had submissions by supposedly intelligent men of an idea. Now, we are asking you is there anything wrong in that idea. If so, you are fully at liberty to shoot it down.

MR. SIREN: May I make an observation here: with due respect to the opinion expressed, I think we should take a look at the social atmosphere in which this whole thing begins to take shape. First of all, every worker when he is being approached to sign a union application card knows he is doing so against the wishes of his employer in almost every instance, so we have the social implication first of all of the worker with some fear and some reservation, in signing a union card in the first place. He knows that the foreman generally, or the superintendent or the owner of the establishment he is working for, is opposed to a union in the first instance, and in many instances makes it very clear and unmistakable that he is opposed to any union organization by one means or another. I am surprised that members of this Committee -- it may be only in a question, but

certainly the implication is there -- are concerned with trying to prove that actually in fact the union cards presented to the Board are not valid. They are concerned about freedom, and trying to get the will and expression of the employees, and when you consider the social atmosphere in which the workers have signed their union cards, is it not sufficient that these people come forward with an application card that is signed and generally witnessed by the person who signed it?

MR. MYERS: Some employers would say there has been undue influence brought upon the employees who have signed that union card which can be eliminated by a free vote without any harm to anybody.

MR. SIREN: May I pursue. Within the premises of the employer there is no such thing as complete freedom as you suggest.

MR. MYERS: So we have it by secret vote.

MR. SIREN: Any more than there is complete freedom within the premises of our own household from time to time, and just ask your teenage daughter about that. May I suggest also that these proposings or proposals that attempt to have a vote, a government-supervised vote as a cure-all for all these problems is not so. This Committee will be meeting again and they will devise some other

method to fight the problem, if they suggest a government-supervised vote as a cure-all. It has been tried many times.

MR. MacDONALD: The Board themselves have indicated if they have to have a vote on every case, administratively their personnel requirements would be far beyond what they have at the moment.

MR. BURT: Where you get that less than 50 per cent, you are going to have to vote any way, for of course you have to prove the majority. But once you have proved, and it is hard enough to get a majority of new people to sign cards, once you prove that why should you have to prove it all over again?

MR. MYERS: Because some employers say you have not proved it. You have undue influence on the people who sign the cards.

MR. BURT: Our people do not run around at nights very much any more trying to get people signed up for unions -- we wish they would -- and most of the operation of signing people up in the union is done in the plant under the eyes of management. Management have complete freedom to do what they like and they do, and they have their people inside the plant, but to prove your majority two or three times seems to me to be an imposition to us.

MR. YAREMKO: You are concerned about

proving the majority two or three times, but supposing -- this is hypothetical -- supposing the legislation only required you to prove to an extent in which it appeared that there was a bona fide application. For example, you could not have it on the application of one man, but on a bona fide application, some figure, 30 per cent, 40 per cent -- not necessarily a majority, but enough evidence to show that this is a bona fide application, should be dealt with by the Board and once that minimum amount, that minimum amount of evidence had been introduced, then in all instances a vote would be taken. You are assuming we would require that there would be a required majority to begin with and then a vote, but if there could be a possibility of having 30 per cent on the initial application and then from then on ---

MR. BURT: We are not proposing to the Committee here that you recommend doing away with the present system of certifying without a majority has been proven on the original application, and if you are prepared to recommend that under the 51 per cent, where we are certified automatically on our proposal, anything less than 50 per cent -- what you are proposing is that if we applied with 30 per cent of the cards signed a vote would be taken. We have no objection to that.

MR. YAREMKO: Whether you applied on

the 30, 40, 50, 60 or 70.

MR. BURT: After you get over 50, then we claim you are proving your majority twice. You prove your majority by the requirements under the Act with signed cards, and the only objection we have is paying a buck -- we do not believe we should have to do that -- and there is a restriction on it. We think that is all that is necessary. For example, I guess you gentlemen already know you can't get the dollar back once you have collected it. We have been accused of a lot of high pressure tactics, and there is not a product that is sold where there is not a money-back guarantee, and the union is the only one where you are not allowed to give your dollar back. If we collect the dollar and our application is not successful we cannot ask for the dollar back. You cannot do that.

MR. MacDONALD: I do not think you can say that that is -- I do not think you are being discriminated against. There is quite a story involving a judge who was said to have signed his own committal order without having read it. If that kind of thing did go on, and I think people are prone -- we feel politically that people are prone to sign things without reading them, but having to extract a little money may even, if it did not produce bona fides, it at least makes him read what he is signing. I do not take a view one way or

the other on it, but I was just wondering, knowing the tendency of people to sign things without reading them, and I think we both know they do at some time, and if you can think of a better way to get a man to read it than by paying a dollar or denoting some blood or give something, but I think that is one way of making sure he does read what he signed.

MR. BURT: The same is true, of course, as far as petitions are concerned.

MR. MacDONALD: We will come to that. I think something has to be done in that too.

MR. BURT: As far as payment of a dollar is concerned, I do not know whether it makes them read any more or not. I do know there is a real difficulty in organizing groups in plants and getting that dollar in front of the foreman. Maybe that is the reason management likes that dollar because if the foreman sees a guy pay a buck he knows he is in the union and he has his eyes on him all the time. Where are you going to collect the buck, in the restaurant or in the shop? He is not supposed to do it in work hours, but it is done, if he is not allowed to do it in the rest period or noon hour outside the gate somewhere. This collection of a dollar is very difficult too.

MR. WREN: Which would you prefer, Mr. Burt, that the requirement of a dollar being paid

as it is now be abolished or that the signers of a proposed petition be likewise compelled to pay a dollar?

MR. BURT: I do not think I am faced with that choice. We propose both. We propose to leave matters pretty well the way they are except that we prove our majority without a dollar and we are entitled to certification.

MR. WREN: I do not see too much in-
opposing
volved in requiring the/petition to pay a dollar. I think what is wrong if the dollar has to be paid by the person applying in the first place for union right admission.

MR. BURT: Why?

MR. WREN: I say that for this reason. Let me explain. I think the very fact that we now ask people to pay a dollar to show good faith, bona fide intention, is bad, and asking people on an opposing petition to pay another dollar wouldn't solve anything because the Board would ultimately be faced with a situation where a man has paid a dollar to join a union in the first place and then paid a dollar to say he didn't want to join. The strength of his word would be negated anyway. I personally feel that paying a dollar in the first place is not good practice.

MR. MACAULAY: There is no argument on that score.

THE CHAIRMAN: Are we on page 2 yet, gentlemen? It is now one o'clock. We will be back here at two o'clock sharp.

Gentlemen from Toronto, we would appreciate it very much if you would be back on time. We waited twenty minutes this morning.

---The Committee adjourned at 1.00 p.m. to
resume at 2.00 p.m.

- - - - -

---On resuming at 2.00 p.m.

THE CHAIRMAN: Gentlemen, it is now two o'clock.

At adjournment time we were just beginning to consider the "Beginning of Recognition." Are there any questions arising from that?

MR. MYERS: Just before we recessed we were talking about the dollar which has to be paid by employees before an application for certification. How does that dollar come to be paid? Do you know, Mr. Metzler?

MR. METZLER: Well, in the legislation prior to this particular Act which was passed in 1950 we had the equivalent of P.C. 1003 in force under the enabling legislation passed by the Ontario Legislature, and the requirement under these statutes is for membership, or membership in good standing in the trade union; and there is nothing in the Labour Relations Act which indicates what are the tests for membership, or membership in good standing; and so the Labour Relations Board, as one of its policy decisions quite a few years ago under the previous legislation, came to certain conclusions as to the tests of membership which would be acceptable, and amongst others, ^{were} the signing of the application card and the payment of at least one dollar as an evidence of their . . .

MR. MYERS: Was that based on any abuse of . . .

MR. METZLER: No, I wouldn't say that it was based on anything of that kind, Mr. Myers. In the original situation they used what they called authorization cards, and they were given a certain amount of weight; but they wouldn't be given the same amount of weight as a membership card, with evidence of the payment of money. So today the Board has dropped the authorization card because the legislation requires proof of membership.

MR. WREN: In the case of federal certifications do you still require that equivalent? What is the position today under the federal authority in cases of opposition to the original application?

MR. METZLER: Well, I would say this, that it is my information that under the federal legislation they hold the representation vote in every case.

MR. WREN: Yes.

MR. METZLER: So that if you make an application for certification there is no automatic certification such as you have under the Ontario legislation.

MR. WREN: Simultaneously, is there no entertainment of a petition opposing the application?

MR. METZLER: Even if there were the

wishes of the employees, you would expect, would be revealed by the vote; so that the employees in question would be able, under the federal set-up, to express their views because of the fact that everybody in the bargaining unit would have an opportunity of casting a ballot.

MR. ELDON: May I ask when the federal Board started holding a vote on every occasion?

MR. METZLER: I will say this, that I think you might obtain some information from Mr. Perkins who used to be a federal government conciliation officer, and who has held numerous votes for the federal authority.

Could you answer that question, Mr. Perkins?

MR. PERKINS: The question was whether a vote was held in every case?

MR. ELDON: Yes; because Mr. Metzler, when he was asked what was the practice under the federal Board, said that the federal Board in every case ordered a vote.

I am asking Mr. Metzler when the federal Board began this practice, because I have had cases of certification without a vote being held.

MR. PERKINS: I don't think the federal Board order a vote in every case automatically.

MR. METZLER: Then, I may be wrong.

MR. PERKINS: But they do order a vote

in a large number of cases.

MR. WREN: Do they entertain any petition in opposition?

MR. PERKINS: They receive petitions and give them consideration.

MR. WREN: And what do they do there? Do they require to pay?

MR. PERKINS: We don't get the results of the deliberations of the Board. I can't . . .

MR. WREN: But, I mean, when a petition is submitted in opposition to an application for certification are there any requirements?

MR. PERKINS: No, none at all.

MR. MacDONALD: There are no specified minimum requirements in seeking certification?

MR. PERKINS: Mr. Wren was dealing with a petition in opposition.

MR. MacDONALD: What are these specified minimum requirements in seeking certification?

MR. PERKINS: They haven't got the same specification as under the Ontario legislation.

MR. MacDONALD: Is it 45 per cent, or 55 per cent, or . . . ?

MR. PERKINS: I don't believe the percentages are disclosed by the federal Board.

MR. MacDONALD: Can you come to the Ontario Board and say 30 per cent and get a vote?

MR. PERKINS: I don't think I can answer that.

MR. METZLER: If it would be of any assistance to the Committee -- because I certainly have no desire to mislead them on the requirements of the federal Board -- I can arrange to have somebody here, possibly a registrar of the Canada Labour Relations Board -- I will make that request to the federal Parliament later -- to come before the Committee and give you that information.

MR. BURT: In any case, the new Government has promised sweeping changes in the Act. I would not give too much weight to an Act that is going to be changed in the near future.

The Minister of Labour, who, fortunately, comes from our own home town of Oshawa, has informed our people that he is going to overhaul this Act, and you can rest assured that we will be making representations if they do.

MR. WREN: What would be wrong with a proposition like this: If a certain minimum requirement were laid down so that an application was not operative -- let us say 30 per cent or 35 per cent of the employees; and, on the other side of the picture, that -- let us take some figure -- let us say if you got an application with 70 per cent of the employees on it certification would be automatic. Alternatively, if it was less than 70 and more than 35 a secret vote be taken.

Would there be anything wrong with that

proposition?

MR. BURT: Except, again, that 51 per cent always represents a majority. No matter how close the majority is it is generally recognized to be a majority.

As one who is subject to election, as I am -- and as the members of the Committee are -- I would think you would be just as satisfied -- well, not just as satisfied -- but you would accept the decision of 51 per cent as well as 71 per cent.

THE CHAIRMAN: They do that secretly, though, by casting a ballot.

MR. BURT: Yes. Now, if the union is required to prove, by showing 51 per cent of signed cards, that they have a majority, and it can be ascertained that the signatures are proper, then I think it should be certified. I don't think you should say: "Well, it should be 70 per cent, or 65 per cent . . ."

THE CHAIRMAN: No.

MR. MYERS: Any member of the Ontario Legislature could increase his majority if he could take a petition around and say: "You vote for me, and don't vote for him at all."

MR. BURT: If there is a feeling in the mind of anyone on the Committee that people in the plant don't know what they are signing, I think that would be quite true, because half the time

they don't know who they are voting for or what they are voting for, because they don't follow the guy up in the Legislature after he gets into the Legislature.

There are a lot of people who have been elected to the Houses in Canada on the basis of election promises and campaigns. Probably a trade union does the same thing. But there is this difference about it, that their term ends every ten months under the law and the elector has the chance to change his union. Under the Legislature you have to wait four years.

THE CHAIRMAN: Supposing you are confronted with the situation where there is an application, say, signed by 70 per cent of the employees in favour of a certain union, and subsequently there is a petition comes in in opposition to it, and that petition contains, say, a sizeable number of names that have already appeared on the application, would the difficulty be cleared by this Committee recommending that the name of any person appearing on the application, whose name subsequently appears on the petition, should be required to appear before the Board?

MR. BURT: Again, I say that that question should be directed towards the Board.

THE CHAIRMAN: No. At this time the Board has nothing to do with it. We are not

interested in what the Board thinks.

MR. BURT: But you are asking a question that involves administrative difficulty, and I would say that if that was a requirement then the Board would have to be in permanent session. That is it now. What you are asking is the case as it now prevails.

In other words, we have had up to 51 per cent, or 60 per cent, and what have you, on signed cards and dollars paid, and then along comes a petition, and unless there is a sweeping minority... That is as it would be now.

THE CHAIRMAN: But what I am suggesting is that only those whose names appear on both should appear before the Board so that they could be subjected to cross-examination as to why they signed both the petition and the application.

MR. SIREN: May I suggest, as Mr. Burt has said, that there is an almost impossible administrative difficulty, because in almost every instance where there is a petition there are as many names on the petition as there are on the application, and, in many instances, more.

I have had a couple of applications where we have claimed 70 per cent or 75 per cent of the employees who have signed cards and paid their dollar on behalf of the applying union, and opposing that will be a petition signed, in many instances,

by 100 per cent of the employees.

THE CHAIRMAN: Including that 75 per cent?

MR. SIREN: Including that 75 per cent.

And the reason for it is very obvious. The foreman tells them: "You sign the petition, or you haven't got a job," and they sign the petition. There is no question about it.

THE CHAIRMAN: If you bring that type of person before the Board and you put him on oath and he gives that type of evidence isn't that the answer?

MR. BURT: Can you guarantee that man his job when he comes back? He comes before the Board and he swears under oath that he was forced to sign the petition because the foreman told him that if he didn't sign it he would be fired. How long is he going to keep his job? He is going to be fired.

MR. JACKSON: Just to clear up what has gone on in the past, and bearing in mind that there is pressure from both sides -- to join and not to join -- and you say: "We are out to have as many members as possible join" -- where the signing is overseen by a foreman, and where, in other words, there is pressure exerted on both sides, would not the answer to the problem be in the casting of a secret vote?

MR. BURT: I don't believe it would be,

for this reason, that the preparation of the election takes so much additional time that it gives management an opportunity to turn the heat on, and as a result of that people will get into a booth and vote against the union.

We had a recent case in the City of Sarnia where we thought we had a sufficient number of people who had paid and who had signed cards to guarantee us a vote -- we didn't have the 51 per cent -- but we had a vote and the organized union's loss was staggering.

The management have a far better chance of getting at the office workers than they have of getting at the plant workers; and there is a fear that if the union comes in what will happen to those who participate in it if an election is recommended by the union in the office? Somebody has to form a committee and participate, and it becomes known to those who are against the union.

We have had numerous cases where we have thought we have a huge majority; so that to go to the Board and get an agreement would give the company time to turn the heat on, and we would lose the election.

MR. MYERS: What do you mean by "turning on the heat"? What could they say to an employee that would cause him to refrain from casting his vote secretly in the manner in which he wanted

to cast it?

MR. BURT: Because there is no way of preventing identification of the union people in the plant. You can't keep it secret. Once you have signed a card, no matter how secret it is, the union people are identified. Employees cluster round certain people who are interested in the union, and interest is started to be shown, and the management knows that. The management does not need to fire the people involved. All they need to do is to transfer them from one job to another. In one instance, by the time we had the vote -- and we had a substantial majority -- the management had moved thirty of our people and scattered them around so much that when the vote was taken we had lost the election.

MR. MACAULAY: How long, Mr. Burt, does it take to get the number of cards that you are satisfied with to make an application to the Board?

I grant you that is a hypothetical question, but can you give me any indication of the time element involved in doing the reconnoitering and obtaining the necessary evidence to go to the Board? Is it a long time, or a short time, or . . . ?

MR. BURT: A lot depends on conditions in the plant. It depends on the attitude of the management. Some managements are fiercer than

others. They are all fierce, but there are some which are not so fierce!

But it depends a great deal on the attitude of the management. We have quite often finished it up in three meetings and within two weeks.

MR. MacDONALD: Within two weeks?

MR. BURT: And at other times -- well, I worked on Chrysler, I think, from 1938 till the time they had a vote, and that was about four years later. The same thing occurs in many plants. Sometimes we don't get them organized at all; it peters out. I can name a number of companies where we have tried to organize and which we would dearly love to have in the union, but we have been unable to do it, and they have been laying there for years and never have been organized.

MR. MACAULAY: No doubt the faster you strike the better?

MR. BURT: I couldn't answer your question and say that it takes from three weeks to three months. I don't think I could give you an answer like that.

MR. MacDONALD: Some times it is done in three hours. I have heard of cases where they have signed the cards at one meeting.

MR. BURT: That is right.

MR. MacDONALD: But that is the exception.

MR. MORNINGSTAR: Then, in that case the

management would be cooperative -- they would want to cooperate?

MR. BURT: No. There are some managements that do not carry on any campaign against the organization of the union, and that is particularly true of a city or an area around which there are strongly organized unions.

MR. MACAULAY: I don't know if your remark, Mr. MacDonald, was in regard to my comment, but sometimes you get a very quick signing -- almost 100 per cent -- because they know that the management is so viciously opposed that unless they do it quickly they have no chance.

MR. BURT: Yes.

MR. MACAULAY: In other instances it may be that the management doesn't care or that it has no particular . . .

MR. BURT: They can stop it.

MR. SIREN: The number of signed members has no relationship to what happens at the vote. You may still get cards signed by 100 per cent at the meeting and yet . . .

MR. MACAULAY: It seems to me that you are concerned about the time during which management has the opportunity of exercising a certain amount of influence on the employees; but it strikes me, at the same time, that you also lose the advantage you have, up to this time, had in having

organized very quickly before there may be an opportunity of any considered resistance.

MR. BURT: You are talking about the time between -- as we are now?

MR. MACAULAY: Yes; as opposed to the vote being taken in every case.

MR. BURT: We have had experience of both. We would prefer the automatic certification. We are not kicking too much about the way it is . . .

THE CHAIRMAN: I think we understand what you are trying to convey to us, and the Board will consider this matter very carefully.

Then, the "Beginning of Recognition" on page 2. Are there any questions arising out of that?

MR. YAREMKO: You state in the first paragraph:

". . . Neither party was compelled
"to agree to anything the board
"of conciliation recommended at
"that time or since."

You are stating that as a fact? You are not implying that a recommendation should be made one way or the other? You are just stating that as a fact?

MR. BURT: Yes.

MR. YAREMKO: You are not implying that a recommendation that boards of conciliation

should be . . . ?

MR. BURT: It is just a fact.

At that time they were using the Industrial Disputes Investigation Act, and there was conciliation board procedure for the purpose of investigating and trying to resolve disputes that arose over recognition. I know after it started in 1939 and subsequent years, prior to the time the law was passed, we had a series of local strikes and stoppages for recognition of unions, dislocation caused by the war and the apprehension caused by the war and so on, and the drive of the industrial labour movement particularly to organize big industry at that time resulted in our application to the government for some kind of legislation to stop these strikes over recognition. We thought there should be legislation as in the States. They used the Industrial Disputes Investigation Act, and the reason I say nobody was compelled to agree to anything is because it was just a waste of time. No management agreed to anything that was recommended by a Board.

This is just a fact that I am stating -- that they were not compelled to agree to recognize anything that was made under the Industrial Disputes Investigation Act.

THE CHAIRMAN: Is there anything else
on page 2?

Page 3, "Recognize International"?

MR. MACAULAY: At the bottom of page 3 there is the question of this Committee in Washington about which I am mainly concerned, and, perhaps, the committee as a whole.

Mr. Burt, you have made it clear now that the committee in Washington has nothing to do with disputes that arise here in Canada. There was some evidence to the contrary of that, but, in any event, that is the position so far as you are concerned.

Have you any jurisdictional body in Canada, or would you support the establishment of a jurisdictional body, to determine disputes either as to what material belonged to what union, or as to what union should be recognized?

MR. BURT: In answer to that, in the first place, the statements were not clear. To clear it up here, there is a jurisdictional group in the United States. I don't know if it has the scope to handle building trades disputes . . .

MR. MACAULAY: I understand that.

MR. BURT: That group can decide whether or not a plumber should thread a piece of conduit, or when he should, or when he shouldn't; or whether a sheet metal worker should install certain material, and so on; but I thought the inference left to everybody concerned that were listening would be

that all these disputes were settled in Washington.

MR. MACAULAY: No, we didn't.

MR. BURT: We don't do that. We settle them here in Canada.

Prior to the Canadian Labour Congress coming into being the Canadian Congress of Labour had committees established for the purpose of settling jurisdictional disputes, and their decision was as final and as binding as you can have on a jurisdictional dispute.

The present Congress have not properly grappled with this complex problem in Canada yet, but we are getting around to it. As a member of the executive council of Congress I can say that we have had a number of discussions on this matter. We are going to have another one next week in Ottawa where we are going to bring various sections of the labour movement together.

MR. MACAULAY: What would you say to a recommendation to the Legislature that, if you didn't set up a jurisdictional dispute board, the Legislature should?

MR. BURT: I have nothing against the present Labour Relations Board. I wouldn't wish it onto them . . .

MR. MACAULAY: I don't mean that it would be handled by the Labour Relations Board. I mean by a jurisdictional disputes board, or a

committee, or something.

MR. BURT: I don't think in Canada it has been necessary. I don't think we have had the problems prevailing here . . .

MR. MACAULAY: So far as your union is concerned?

MR. BURT: Yes. I can only speak for my own union.

MR. MACAULAY: You wouldn't speak for the building trades and that kind of thing ?

MR. BURT: I don't think it is a job for the Board or a legislative Committee at all; I think it would be impossible for you to undertake it with any success.

MR. MACAULAY: There is such a provision, I believe, in the Factory Act?

MR. BURT: I believe there is.

MR. MACAULAY: And the government hasn't yet set up a board?

MR. BURT: I don't remember all the sections of the Factory Act.

MR. MACAULAY: You don't think it should be done here?

MR. BURT: No, I don't think so.

MR. MACAULAY: You think there is no need for it?

MR. BURT: I don't believe there is a need for it.

MR. YAREMKO: Mr. Burt, in reading that paragraph on page 6 I am led to the conclusion that you believe that the question of jurisdictional disputes should be settled by tribunal within the borders of Canada?

MR. BURT: I think so. That is done as much as possible.

MR. YAREMKO: That other brief in regard to the other type of jurisdictional dispute, left the impression, or those who were presenting the brief maintained, that that type of jurisdictional dispute should be continued to be settled from Washington.

MR. BURT: I would imagine that is true -- that people who are involved in that kind of dispute would prefer that it be settled by the Board associated in that way through their international procedure.

MR. MacDONALD: Isn't it the case that even in certain jurisdictional disputes -- the kind you are familiar with -- you will take into account the North American commission as well as the Canadian commission for the reason that you would not want to come up with a decision in Canada that would not be in accord with the decision in the States?

MR. BURT: Yes, we have.

MR. MacDONALD: I am really asking a

question. Do you not make the decision in your jurisdictional committee in the Canadian Labour Congress?

MR. BURT: We have no jurisdictional dispute committee in the Canadian Labour Congress.

MR. MacDONALD: When you get it will that committee render decisions that are consistent with comparable decisions in the States, so that you won't have an international union saying: "You can go in and organize a particular group of workers," whereas in Canada it would be different?

MR. BURT: I have never had that sort of situation, but I do know that there have been decisions in the States which did not necessarily apply to us under the old Canadian Congress of Labour. We have very friendly relations with some of the other industrial unions, but the Canadian Congress of Labour made decisions, when they were our Congress, that were not in conformity with the American decisions. It was a different set of circumstances which dictated that decision. There is the difference, for example, of the area in which the disputes arise, and the Canadian Congress of Labour would so duplicate the Canadian Labour Congress in their regulations that if you are awarded jurisdiction as the result of an application you have to prove that you are going to occupy that jurisdiction and

organize the workers involved; and in Canada, the way we are spread out, we are much thinner than they are in the United States. Some times it is necessary to deal with the problem in this manner and turn over to another union employees that you would ordinarily organize.

MR. YAREMKO: Would you be good enough to file Section 3, subsections (3) and (4), so that the Committee can refer to them?

MR. BURT: Yes, I will file a copy of that.

THE CHAIRMAN: Office Worker Bargaining, on pages 4, 5, 6 and the top of page 7?

MR. WREN: Mr. Burt, on the question of the organization of office workers -- this is solely from the point of view of information -- I asked an industrialist why he was so bitterly opposed -- in this case he was -- to his office workers being organized with the industrial union. His reply to me was that he was opposed to it merely because his office staff, of necessity, handled confidential information of the company -- typists, file clerks and what have you -- and he said it would prove disastrous to him if people could exchange information.

Is there any validity in that thinking?

MR. BURT: If that employer could go before the Board and prove that they are confidential

employees then they are excluded from the bargaining unit.

We claim that they shouldn't be excluded, but, nevertheless, he has the right to go and say that So-and-So should be excluded because they handle the Labour Relations records, for instance. Now, I don't know how far we are alone in this point of view, but we are of the opinion that because a guy handles confidential records of a company and joins a union -- that doesn't say that he is a so-and-so and can't be confidential any longer. All you do when you keep him out of the union is to keep him out of collective bargaining which is his legal entitlement to ask for better conditions, his legal entitlement to ask for a better deal from the employer, with the weight of the union behind him. The only thing you have succeeded in doing is that.

I think that if we wanted to have access to the Labour Relations records of the company and the guy wasn't in the union it would be possible to bribe him, or encourage him to do so. We would go and ask him, whether he was in the union or not. It doesn't make any difference.

To my knowledge we, in our association, have never yet asked anybody in an office to supply phony records because we would get the answer "No." We haven't tried to take advantage whether the man

was organized or not organized.

So the term "confidential" would have to be used with another context to convince us that the guy should be denied his right to bargaining because he is in confidential employment.

MR. MacDONALD: What we are talking about is the same union representing factory and office.

MR. BURT: He is not entitled to certification if a request was made to the Board that he was confidential and that he be excluded from the bargaining unit.

MR. MacDONALD: I didn't mean that. I mean, there are office workers' unions?

MR. BURT: Oh, yes.

MR. MacDONALD: But one of the basic objections you are making, if I understand you, on pages 4, 5, 6 and 7, with regard to office workers' unions, is where the employees are put into the office workers' union and kept out of the industrial union simply on the ground that they are confidential employees. The one union should be able to organize the two groups of people. Isn't that what you are saying?

MR. BURT: No; that wasn't Mr. Wren's question.

MR. MacDONALD: No, it isn't Mr. Wren's question. But is that your objection on pages

4, 5, 6 and 7?

MR. BURT: We don't mind establishing separate certifications. The big thing is that they should bargain together if necessary.

MR. MACAULAY: Separate certification? Are you advocating that the industrial worker should be represented by the same union that represents the office worker, or vice versa?

MR. BURT: No; we are suggesting that the office workers decide that, or the factory workers.

MR. MACAULAY: But what you are saying the Board says shouldn't be?

MR. BURT: Yes; that is right.

MR. MACAULAY: All right.

MR. BURT: We say that it shouldn't be decided by legislation -- that the workers themselves should be given the choice.

MR. MACAULAY: It isn't decided by legislation; apparently it is decided by some regulation of the Board?

MR. BURT: A regulation of the Board, yes.

MR. MACAULAY: That isn't legislation.

MR. MacDONALD: This raises an interesting point, I think, from our point of view, because if we are going to make recommendations then the situation we are faced with is not the result of

the Act.

THE CHAIRMAN: It is by regulation of the Board.

MR. MCDONALD: But it is as a result of a decision of the Board in the light that, in their view, the interests of the office workers are so distinct from the plant workers that they should be . . .

THE CHAIRMAN: But the Board comes under the Act.

MR. MacDONALD: But on this specific point the only way to cope with the situation is to put it specifically in the Act that the office workers can be separate or otherwise, as they so desire.

THE CHAIRMAN: But we do have the right despite the fact that it isn't covered by the Act; it is covered by the regulations.

MR. MACAULAY: If the Board could be persuaded to change that particular section, that the interests of the workers are so distinct, then, of course, it can be specifically put in the Act that if they so desire to be in the overall union they can be.

THE CHAIRMAN: If the Committee recommends that and the Legislature goes along with it.

MR. MACAULAY: What was the section of the Act which the Board used when making this

particular regulation?

MR. BURT: Now you have got me.

MR. ELDON: I think the Board does that because the Board requires full power to determine what is the bargaining unit.

MR. MacDONALD: Under which section?

MR. METZLER: Section 6(1).

MR. MACAULAY: And in reference to this that is the section which the Board feels authorizes it to make this decision?

MR. ELDON: In the Auto-Lite case -- and I am familiar with this case because I took it to the Board at that time -- I thought the employees had the right to join the union of their own choice. The Board refused to certify the plant locally and the Board compelled us to apply for a charter which would comprise only office workers.

The Board, since that time, has changed its position, and the Board now states that the office workers can be in the same union as the plant workers, but they must have their own unit and their own agreement.

Now, it seems to me, as I see it, that the Board has an authority to do that, because the Board have sole authority to decide which is the bargaining unit.

The point you raise, Mr. Macaulay, is what, following from that on?

MR. MACAULAY: I understand what you have said, thank you.

MR. METZLER: Before you leave this question, Mr. Chairman, the word "confidential" has been used, and I would like to mention section 1(3)(b), which reads as follows:

"For the purposes of this Act,
"no person shall be deemed to be
"an employee, who, in the opinion
"of the Board, exercises managerial
"functions or is employed in a
"confidential capacity in matters
"relating to labour relations."

That is the exclusion.

MR. MACAULAY: Why the latter exclusion, and what does it mean?

MR. METZLER: Well, Mr. Macaulay, you might have people working in the industrial relations department of a firm -- personnel officers and clerks and the like of that -- and some of them may be excluded if it has been established to the satisfaction of the Labour Relations Board that they are employed in a confidential capacity in matters relating to labour relations.

MR. MacDONALD: I think the problem here is that it is sometimes a little difficult to define what is "confidential information" viewed from the point of view of the management.

For example, there have been occasions when unions have got into negotiations and the argument of the company is: "We are facing a period of shortage of orders. We are running into a depression" -- that kind of proposition -- "and, therefore, we can't consent." There may be somebody in the unit that knows that the company received six orders the previous week, which would be enough to keep them busy.

It seems to me that that is the kind of information that management want to withhold because it puts them in a stronger position to bargain with the union and meet with their request.

MR. METZLER: I don't think I can agree with you because it is restricted by the definition " . . . confidential capacity in matters relating to labour relations." One of the common exclusions would be the secretary, or the general manager, who has an overall jurisdiction over the corporation and who would have all the labour relations people and other people reporting to him.

I believe that they, of course, would be excluded from the bargaining unit on the basis that he or she has access to confidential matters relating to labour relations.

MR. WREN: But is that so? I don't know how any such employee in a responsible position could be classified in that section as affecting

labour relations.

MR. METZLER: Yes; but, Mr. Wren, remember that the same tests will be applied to them -- modified to meet their needs -- as would be applied in respect of the plant union. It would be automatic. Somebody would be above the rating of foreman and, therefore, they would be automatically excluded.

MR. BURT: That is not the general rule.

MR. METZLER: There is a level at which there is a cut-off.

MR. BURT: There is a level at which management starts.

MR. METZLER: Yes.

MR. BURT: And then you get the cut-off, and that is the reason for it.

Now, we are talking about people who exercise no managerial function.

MR. MacDONALD: Apart from the manager that Mr. Wren mentioned, to take a broader view, anybody can get knowledge of what the orders might be.

MR. WREN: This gentleman here went on to say that the position would be that many members of the office staff would be in a position at any time -- if they so desired -- to look at certain files that would have to do with the financial position of the company.

Naturally, the financial position of a company is very important to labour relations at all times.

So that I still maintain that this section can exclude almost any office worker.

MR. BURT: All we have to do to find out the financial statement of a company is to take out one share of stock. We often do that.

But our whole object here is to try to point out to this Committee that the only thing you do is to deny to the confidential fellow the right to speak for himself or through his union, and he is alone. We have never heard management say: "He is confidential; therefore, he will have more security. He will have the same protection as we give the foreman. If we give the foreman an increase in pay he will get it. We will treat him like a foreman." They don't do that. They want to give him all the privileges and all the advantages that are gained through collective bargaining, but he can't join the union. That is what the Act helps them to say.

MR. MACAULAY: What is the loss if he gets all the advantages without having to pay the dollar?

MR. MacDONALD: The union is losing something.

MR. MACAULAY: But putting it on the

basis that the employee has been deprived, I didn't hear him saying anything about what he had lost.

MR. JACKSON: I gather, then, that what you would say would be to leave it up to the officer workers to decide whom they want to belong to, but you feel that they should belong to the same bargaining unit as in the plant?

MR. BURT: If they want to.

MR. JACKSON: But you think it is distinctly to their advantage that they should?

MR. BURT: If they decide to.

MR. JACKSON: But you say that on page 6.

MR. BURT: Yes.

MR. JACKSON: You say:

"Separation does not give office

"workers any advantage . . ."

You imply, therefore, that they should all belong to the one unit. Is the advantage that accrues to the worker noticeable? You have had experience of Ford, say, where they are separate. Have you experienced where they are all one? Is that a distinct advantage?

MR. BURT: We have no experience to speak of in that respect, because the regulation of the Board was made a number of years ago, and we only had one unit that I remember organized separately in the whole of Brantford. We just had one instance where they were part of the factory workers

union. That particular union now, in view of the Board's regulation, is not an office workers union.

We don't mind an amalgamated local union such as we have in Windsor of the UAW taking in office workers, because it gives them power financially and they can do things. They can pay for the lost time of a secretary for a few days and they can get things in order for office workers. We had the amalgamated locals and we tried to put the locals in the one unit in that city. When it comes to bargaining we have half a dozen units; and when a case arises in locality units you find that they should be identified, in the bargaining process, with the factory workers union, because most of the things that apply to the factory workers likewise apply to the office workers; and for that reason they should all be together and all in the one unit for bargaining purposes.

Take, for instance, if the office workers wanted us to bargain for a \$2,000 life insurance for them, but the factory workers say: "Oh, we don't want that." So the factory workers settle for less than that. If the office workers were together in one bargaining committee they are more liable to have a common presentation from the management. When we agree with the management on behalf of the factory workers then you find the

office workers want something a little different; and then you can't get it. You will come up against this, that the management will say: "You agreed with us on behalf of the plant workers, and now you are coming back with something else for the office workers." If you could get them in one committee you could make a joint submission. The other way you are liable to have two industrial disputes rather than one.

MR. JACKSON: They may be separate submissions to the management . . .

MR. BURT: They may be separate.

MR. JACKSON: . . . but they are done jointly, at one time?

MR. BURT: Yes. Managements have a habit of getting a pencil out and saying: "We gave the workers 12 cents. We will translate that into a monthly amount and give it to the office workers," and they do that regardless of whether the office workers need more or not. Unless we have the classifications in the office to deal with the matter it is settled. They settle it in the plant and they settle it in the office.

MR. MACAULAY: You sum it up at the top of page 8 where you say that you have the right to do three things?

MR. BURT: Yes.

MR. MACAULAY: That is the whole submission

of that point.

MR. BURT: That is correct.

MR. MACAULAY: That is at the top of page 8, the second paragraph.

MR. BURT: Office workers and skilled trades were locked together by Mr. Finkelman, not by the UAW. We want to treat them both the same, and that is why we made this recommendation.

MR. MACAULAY: I see. But, in any event, so far as the office workers are concerned you think they should have the right of being represented if they wish on the bargaining unit?

MR. BURT: Yes.

THE CHAIRMAN: Then, is there anything else on page 7? Page 8 -- The Labour Relations Act, section 1(h)?

MR. MACAULAY: In the first paragraph you say:

" . . . Under this language it
 "is possible to prosecute employees
 "for any number of problems that
 "arise in the normal course of
 "events . . ."

How often does that happen, apart from something arising out of a strike?

MR. BURT: Where is that again?

THE CHAIRMAN: It is under "The Labour Relations Act," section 1(h), the last sentence.

MR. BURT: That is happening every day in the week -- "Under this language it is possible to prosecute an employee for any number of problems that arise in the normal course of events . . ."

MR. MACAULAY: Yes?

THE CHAIRMAN: The question was: How often has it happened? Was that it, Mr. Macaulay?

MR. MACAULAY: Yes. Can you tell us? Have you any idea?

MR. BURT: Yes. In the case of a speed-up, for example, and where the employees just refuse to be speeded up. In the automobile plants we have experienced mass discharge, and the mass discharge would be anywhere from seventeen to thirty people; and then they tell you to take it to arbitration; and then they will say that the guy slowed down and came under section 1(h) of the Act.

MR. MACAULAY: Have there been many cases where -- I am using your own language -- where an employee has been prosecuted?

MR. BURT: Not very often; it is not necessary to prosecute.

MR. MACAULAY: You use that expression yourself. If that doesn't seem to be . . .

MR. BURT: I said: ". . . it is possible to prosecute employees for any number of problems . . ." and so on.

THE CHAIRMAN: But these prosecutions never occurred?

MR. BURT: But I am asking questions there -- I think that on the speed-up question -- there is really a speed-up in No. 1 -- if there is a claim by employees that they are being asked to work at an abnormal pace or that they are being treated unfairly by the company, does that become a "concerted activity" and illegal? What happens? Under the Act as formulated now the management can discharge people, and they can . . .

MR. MACAULAY: Do you mean prosecute or persecute?

MR. BURT: Yes, prosecute.

MR. MACAULAY: Will you tell me how many cases of prosecution there have been?

MR. BURT: I don't know of any.

MR. SIREN: I don't know of any myself.

They prosecute in their own way by discharging the people.

MR. MACAULAY: That is persecution.

THE CHAIRMAN: That is not prosecution; that is persecution.

MR. ELDON: That is the right to discharge. We had penalties where the employee would be subject to a fine of \$3 a day, but the company never exercised that. They fired him.

We went to arbitration on the point and

the arbiter didn't agree with us. Although the agreement laid down the penalty the company fired them and the arbiter agreed he had the right to fire them; so they have three rights.

MR. MACAULAY: That may be. I was just trying to establish how many cases there have been...

MR. BURT: I don't think that you have to restrict yourselves in your recommendations to things that have occurred under the Act. I say that people can be prosecuted under the present terms of the Act if they do these kind of things. These things could be done. It is possible to do that. Surely it is unfair to have it act that way. There is such a thing as threat of prosecution.

MR. MACAULAY: Is the threat of prosecution held out very often?

MR. BURT: Not threat of prosecution exactly, but the Labour Relations Act has been, in the case of production standards and so on, and because of the Labour Relations Act being constructed the way it is our agreements follow a pattern within the terms of the Act, and the management are assisted by such terms in the Act to make sure that they get clauses in the agreement that will determine conduct.

I say that the Act is confining.

THE CHAIRMAN: Is there anything further

on page 8, Section 1(h)?

MR. JACKSON: Well, Mr. Chairman, this is more or less a general question. I wonder if I may ask you this, Mr. Burt: It seems to me that, public relations-wise, where labour and management make public relations is when a strike occurs. We don't hear of the thousands of times -- and there must be thousands of times -- where negotiations are carried on peacefully. We only hear of the time when a strike occurs and when the feeling is bad and public relations are poor both on behalf of the management and the union.

That brings up a question that I would like to get your opinion on, and that is the question of picketing which accompanies strikes. Do you think it would serve any useful purpose to have in the Act a definition of the word "picketing"?

MR. BURT: No.

MR. JACKSON: Am I right in assuming that that is what happens and that is where you, as a union, may find your biggest problem, and, I assume management may find the biggest problem?

It occurred to me, just in reviewing the briefs that have been presented here, that, public relations-wise, for the peace and betterment of the community and so on, picketing -- and this is a definition -- is just "a demonstration resulting from a strike which we are now discussing."

Have you any thoughts on defining "picketing," or should it be defined?

MR. BURT: I don't think you would need a definition of "picketing" if you put some restrictions that ought to be placed on strike-breakers. I don't see why people under the banner of freedom, or under the guise of freedom, should be given the right to take somebody else's job because he is having a dispute with his employer.

I don't think a definition of "picketing" would be the answer; because where a strike has been well organized and well supported by the people on strike, and in an area of activity where the whole area is well organized, you don't have any trouble with pickets. The only trouble you have with pickets is encountered where there is no activity at the scene of the strike.

There is an instance you have in the good old City of Toronto here where we have the rather sad spectacle of police escorting people into the plant because somebody is afraid somebody is going to get hurt, and everybody howls about freedom where the guys are only trying to protect their jobs.

I don't know how you would put a definition on that kind of business. When the law does that sort of thing we disagree with the law.

MR. JACKSON: Do you agree nobody

should cross a picket line?

MR. BURT: I don't think anybody will cross a picket line that knows anything about the circumstances of the strike.

MR. JACKSON: Isn't that where the trouble starts? I am trying to get at the basis of the trouble. You say you shouldn't cross a picket line?

MR. BURT: There isn't any trouble unless you have people crossing the picket line.

MR. JACKSON: Therefore, you say that they should not cross the picket line?

MR. BURT: They should not cross the picket line.

MR. JACKSON: Is it your union that allows people in to maintain the plant, and so on?

MR. BURT: We have made one or two agreements with managements. We have them now in effect; so that during a strike we will allow people in to maintain the plant, providing that we have an opportunity to examine the work they are going to do and, further, providing the company will not attempt to induce their employees to come through the picket line.

MR. JACKSON: That sounded like a good idea to me when I heard it, because I think that is one of the reasons for these bad public relations and bad feelings amongst the public where

a plant goes on strike -- the fact that they won't allow anybody across the picket line, regardless. But you allow, as I understand it, maintenance of the plant so that the plant itself doesn't, shall we say, suffer damage?

MR. BURT: It depends on the circumstances involved.

It would be impossible to set down regulations governing all instances when the circumstances are different in almost every case.

We are not averse at any time, if a strike occurs, to sitting down with the management and trying to work out ways and means of protecting the company's property and maintaining their equipment, because we know that some day the strike is going to end and the people will have to go back to work. There are, of course, instances where we say this, that and the other to the management and they will not make any kind of agreement in that respect and they try to get people to go into the plant in order to maintain that plant, without discussion with the union; and that is the time you get trouble.

MR. JACKSON: Would you entertain the definition of "picketing" as being a means of peaceful demonstration?

MR. BURT: Yes; I think that is the accepted theory on picketing. It is, mainly, a

peaceful demonstration. It is the central point of the strike for giving our membership information. It is the central place where the strike is carried on.

MR. SIREN: It always remains so -- a peaceful demonstration -- up to the point where the employer tries to interfere with it either by attempting to import strike-breakers or doing things he shouldn't do.

MR. JACKSON: I am not too clear in my mind -- I am trying to look at both sides -- from my own point of view I am not too clear what rights an individual has in allowing people into his own property.

MR. SIREN: But there is always the legal right to strike.

MR. JACKSON: Yes.

MR. SIREN: And if there is a legal right to strike and to take away from the employer his facilities to produce -- at least so far as human facilities are concerned -- why shouldn't that right be maintained?

(Page 1650 follows)

MR. JACKSON: I am not disputing that at all. I am just putting this to you: How far should the picket line go?

MR. SIREN: Why should we not prohibit the employer from doing certain things in the very same way?

MR. MACAULAY: It is his property.

MR. JACKSON: Can I picket you from entering your house?

MR. BURT: What is the definition of your house?

MR. JACKSON: Can you picket me from entering my own property or could I picket you from entering your property?

MR. BURT: It depends on what kind of property you have. If you own a store it is a public place and people should be allowed to go into the store.

MR. MACAULAY: Assuming it is a factory.

MR. BURT: You are assuming the employees of the company have no say in the company whatsoever.

MR. JACKSON: Oh, no, I do not say that but they are not administrating.

MR. BURT: You must be talking about keeping management out and they do not necessarily own the property; they are custodians of the property. If we are keeping the stockholders out

or, say, someone like that, that is something else again. Suppose you keep the foreman out, you cannot say we are keeping anybody out of his property. He does not own the property.

MR. JACKSON: That is true.

MR. BURT: Take General Motors, you would have a lot of people to keep out of there; but the people who run the company's property, if they do not get in where they want to go, then you hear about it.

MR. JACKSON: I know of one in London and he had quite a time getting in.

MR. BURT: But he got in.

MR. JACKSON: But he had quite a time.

MR. BURT: They kick about identification. If there is a strike we say, okay, you know the people that have to get in and if you tell us who they are we will give them a pass. That pass is something they just can't see -- a pass to get into our own property. These companies are actually owned by remote control.

MR. MACAULAY: You could not have 700,000 shareholders running one man's job.

MR. JACKSON: Is the U.A.W. concerned with what I will refer to as public opinion? Are you, as a Labour Union, concerned about public opinion?

MR. BURT: Of course we are concerned

about public opinion.

MR. JACKSON: Then do you think I am right in stating it is a problem?

MR. BURT: There is no doubt about it. But it depends, also, on how the Press treat it. We have to remember the guy who owns a newspaper is a substantial employer in the City of Toronto and he is rather inclined to treat workers on strike in a shabby way if he gets the chance.

MR. JACKSON: You cannot say of any ways in which it can be better?

MR. BURT: Oh, sure, there are ways in which it can be better and we have suggested that if a strike has gone through the procedure which is required by law and, therefore, becomes a legal strike then if there is restriction of pickets there should be restriction of strike breakers. We will agree to that.

MR. JACKSON: You will agree to that.

MR. BURT: If they restrict all strike breakers we will restrict pickets.

MR. MACAULAY: Assuming that is true, it raises an interesting problem. What do you mean by restrictions of strike breakers?

MR. BURT: We mean that management shall not employ any strike breakers.

MR. MACAULAY: Does that mean you will not prevent anybody from entering the plant?

MR. BURT: Not necessarily; it does not mean access. They will not be given access to the plant.

MR. MACAULAY: You were the author of the statement that if they will accept restrictions of strike breakers we will restrict pickets. I was just wondering what restrictions you felt were necessary for strike breakers.

MR. BURT: We are going to need somebody around the plant to find out what is going on and tell our people what is going on. That is the usual thing during a strike. In other words, just as they are trying to impose economic penalties on the worker, we are trying to do the same to them and in that way eliminate the strike.

MR. MacDONALD: Then, Mr. Burt, is this what you are trying to say: If the company is willing to say we will not bring anybody in to resume production you would be willing not to have any pickets because you have no need for pickets?

MR. BURT: That is right.

MR. SIREN: We have had actual experience.

MR. MACAULAY: How does that follow? If you have picket lines as a focal point from which the strike is organized and managed, as you have said, how are you going to do away with the picket line; how would you manage and organize your strike if you do away with the picket line?

MR. BURT: We do not agree or suggest in anything we have said here that we would do away with any picket line.

MR. MACAULAY: My friend from York South said to you that if the company would not bring in anybody to resume production then you would do away with the picket line because you would have no need for the picket line and you agreed. Now is this another case of the same thing as a man who signs a card and does not read it? My friend said to you if management would agree not to resume production would you agree to withdraw the picket line?

MR. BURT: He said restrict.

MR. MACAULAY: He said you would not have need for picket lines.

THE CHAIRMAN: We will ask the reporter to read back Mr. MacDonald's statement.

THE REPORTER: (Reads) If the company is willing to say we will not bring anybody in to resume production you would be willing not to have any pickets because you would have no need for pickets.

MR. MACAULAY: And what was Mr. Burt's answer?

THE REPORTER: (Reads) That is right.

MR. BURT: That is wrong.

MR. YAREMKO: There seems to be some question when a trade takes place as to who gets the horse and who gets the rabbit. We have heard Labour say they get all the rabbits. You say in your brief, "In all of our experiences we have yet to see half a dozen lock-outs in this country, which could be proven". Are you saying that the lock-outs are illegal?

MR. BURT: We are saying they cannot be proven.

MR. YAREMKO: In the last ten years has there been a tendency on the part of the employer to use lock-outs?

MR. BURT: An employer does not need to use the lock-out term nor does he need to expose himself to the lock-out any more than he needs to expose himself to unfair labour practice. He can do it in such a way so that it cannot be proven. I think the Department of Labour record for this province would show there has not been half a dozen lock-outs nor are there any cases where management has been prosecuted because a lock-out is so hard to prove.

MR. YAREMKO: How many instances, in your opinion, have there been of cases of lock-outs, in actual fact, which you could not prove to be an illegal lock-out?

MR. BURT: I do not know.

MR. YAREMKO: Have there been a great number; have there been as many lock-outs as strikes?

MR. BURT: No, I do not think so. I do not think there have been as many lock-outs as strikes because management do not have to use the lock-out weapon at all. They **do not** need to say it is a lock-out.

MR. MacDONALD: Is it not likely a lock-out would be used more frequently in a time of economic recession or depression than in boom times. There is no future in a company voluntarily taking the initiative in economic action if it means they cut themselves out of an active booming market but in depression time, with their warehouses filled, a **lock-out** would be a weapon they could use and would use.

MR. BURT: We do not feel the company should use the lock-out. When we are on strike we are on strike and not just taking a holiday. If we could say we are ^{not}/on strike **and** get around the act to use that to our advantage. But we are not in the same position as the employer who **lays** everybody off because of economic pressure and he wants to get rid of collective bargaining. He can lay off those guys if he has nothing to do and if he has no contract he knows who they are and he can call back who he likes. So he gets rid of the

union. In that way he does not expose himself. That is why I mention the horse and the rabbit. The public seems to think that under certain circumstances the employee should refuse to strike and under certain circumstances the employer should not resort to the lock-out. You are not taking anything away from the employer. I can guarantee you that the Department of Labour have not been involved in a dozen lock-outs where they are prepared to admit it was a lock-out. I can remember one case, Mr. Meighen was Prime Minister, and he wired the president of the company to open its gates and take the men back to work. It was during the war. He appeared on the scene himself and we settled that lock-out.

MR. ELDON: I think the actual meaning of the lock-out is this: When we go on strike we do that to compel the company to make certain concessions we are asking for and which the company is refusing to meet and to balance that the regulations say, there shall be no lock-out. I think that is the real meaning of lock-out **but** the company does not do it that way. For instance, if there is a complaint about the production of an individual employee and that employee does not get his production up, what do they do with him? They suspend him. If he still does not get his production up they fire him but there would be no lock-out in that sense. If a company says there must be increased production on the line and there might be

200 or 300 employees involved and they do not get the production up they handle it in this way: The workers get to work at 8.00 o'clock and the company will send them home at 9.00 o'clock and give as their reason there is disruption of work because there is a shortage of parts. The men are sent home on the excuse that there is a shortage of parts. They bring the men in to work in the morning for an hour and then send them home again and in no way is that described as a lock-out.

MR. MACAULAY: How would that help them speed up their production? How can they speed up their production by cutting down on the number of hours being worked?

MR. ELDON: They are better able to take it than the employees. Here is a married man with three or four children and he comes into work on Monday and after an hour is sent home and the same continues all week and he makes, perhaps, \$22. He may only work ten hours in the one week and then the same thing the next week. A man comes in to work and ready to start to work and is then sent home, day after day, and to us that is a lock-out.

MR. WREN: How often has management done that with you in Windsor?

MR. ELDON: It was done with one company nearly all of last summer and last winter.

MR. WREN: What company is that?

MR. ELDON: I do not want to mention the name of the company.

MR. WREN: I think you should mention the name of the company.

MR. ELDON: Very well, then I will mention the name; it was Chrysler. They did it all last summer. They ~~did~~ it for weeks upon weeks.

MR. MACAULAY: Was it to reduce production or speed it up?

MR. ELDON: They wanted production increased and the men claimed they were working to capacity and they sent those ^{men} home week after week.

MR. MACAULAY: They would not make it that way.

MR. ELDON: No, those men did not increase their production, they were working to capacity.

MR. BURT: No, they never did.

THE CHAIRMAN: Gentlemen, shall we now go on to Section 6, Sub-Section 2, at the bottom of page 9.

MR. MACAULAY: Mr. Burt, on page 10, the last paragraph of Section 6, after giving some history you say:

"We would suggest an emendment to

"the effect that any union exercising

"its craft rights under this Section,

"shall be declared a craft union, --".

Have you ever discussed this with what is called a craft union and do they agree with this view?

MR. BURT: That is very doubtful. In some cases, I imagine, it would be doubtful that they would agree but we have placed it before the Labour Relations Board.

MR. MACAULAY: If it were done in this way it would work more in your interest than in the craft union?

MR. BURT: Not necessarily. Assuming a craft union is a craft union, it wants to be designated as such. Then, of course, there are industrial unions that can take any industrial parts of the bargaining unit. I suppose what brought this about was the fact that our union has always been designated as an industrial union and when we apply for certification we cannot apply as a craft union. Therefore, we have to organize the whole bargaining unit whereas a number of craft unions, particularly the operating engineers, building trades, which are not too much industrial, unless they are strictly industrial they can apply for certification either as a craft union or, if they wish, as an industrial union. We want equal rights.

MR. YAREMKO: The reason behind your comments in Section 6, Sub-Section 2, seems to be in conflict with your reasoning for office workers and skilled trades.

MR. BURT: No. What we say is that office workers, if they want to have a separate union they should have it but they should bargain together with the skilled workers in an industrial plant. They are irrevocably tied up with the workers in a factory union. In many cases seniority, wage increases, greivances are part of the industrial unit. Even if a skilled trade say, we want to set up a separation within the unit, this has nothing to do with them. We would not apply for a group of electricians in General Motors for bargaining rights because in our opinion we could not do them any good. We would not apply for a group of operating engineers in a plant because we do not think we can do them any good unless you have the plant, in a company such as General Motors, Chrysler, Ford. They are not going to cut small sections out of a plant. In that case they belong to the rest of the plant and you cannot bargain for a small section; you do not have enough power. If you have a dozen electricians in a plant, it is pretty hard to tie up a big plant with a dozen electricians. When you have all the skilled workers it makes it much easier. We say the operating engineers should be one or the other. We say they should apply either on a craft or an industrial basis and not have the privilege of doing both because we have only one way of doing it.

THE CHAIRMAN: Gentlemen, shall we now

go on to Section 7, subsection (2), (3) and (4).

MR. MACAULAY: Mr. Burt, I do not say I am speaking for myself but I think you have heard this opinion expressed that one of the reasons some people think a vote of 55 per cent. should be obtained rather than 50 per cent. is because certification is something that is very important to the worker and the rights are obtained for him and so forth and the certification, in effect, goes on for a long time. You have heard that said, I am sure. I do not say I think this is so, I am throwing it out as a thought. If I were satisfied that a union or a bargaining unit had to apply for recertification every certain number of years, I would be prepared to say a 50 per cent. or a straight majority of the votes taken was good enough. What would you say if you felt that was a condition on which a straight majority of the votes cast would enable you to obtain that legislation? That you would have to apply every three or four years, or some period, for recertification.

MR. BURT: I would not agree to that at all because the employees in the bargaining unit have the right to challenge the certified bargaining agent every ten months let alone every three or four years.

MR. MACAULAY: It is not often done.

MR. BURT: Then he must be doing a good

job for the workers.

MR. MACAULAY: I do not think that is to be assumed because human nature being what it is and the way they react to a situation and the length of time it takes to stir them up, 22 years in some instances. I wonder if there is not some answer to the problem. It seems to me if people did not want to vote, I do not see why they should be included. I am half in sympathy with the proposition that the majority of the people who vote should be the people who decide things. I am wondering if the safeguard of a regulation for recertification or some rolling around of the time element of the certification or some other alternative is the answer. I suppose a decertification can be done but that holds you up to loopholes on that majority point of view.

3 MR. BURT: We are talking about 4 per cent.

MR. MACAULAY: We are talking about the majority of people who vote as opposed to a fixed number of those eligible to vote and it may be considerably more than 4 per cent. Say only 30 per cent. of the workers vote, it is quite a different thing, and 20 per cent. vote in favour. Say 20 out of the 30 vote in favour and 10 against, you would have, in effect, 20 out of 80.

MR. BURT: The same thing applies to the election of members of the legislature.

MR. MACAULAY: But our constitution requires there be a new election every four years.

MR. BURT: That is right.

MR. MACAULAY: If you had to apply for recertification in the same way ---.

MR. BURT: The Act provides there can be a challenge every ten months.

MR. MACAULAY: I imagine that is an illusory right.

MR. BURT: If you were faced with that in the legislature I think you would rather have it the other way rather than have somebody able to institute some competition every ten months. I have never seen an election decided yet on a 30 per cent. vote in a plant. On election day, the experience is, a very, very substantial number of employees participate but it is possible to have some who do not. They are **the** people who are not interested in having collective bargaining in the plant and yet their votes count against the union. If they are in the plant working and do not vote their votes are counted against the union.

MR. YAREMKO: Is it my understanding that if a person does not vote that vote is counted against the union? Are the abstainers made aware

MR. BURT: I am sure they are; we use it in every organization campaign. We tell those who are going to abstain that their vote will count against the union. Then we have the fellow who abstains from voting does not attend the meeting and either/unless you write him a letter or go round to the house and see him you have no way of communicating with him except at the plant. I am sure in our campaigns they are informed of that situation.

MR. MYERS: Do you think this right to change unions every ten months would lead to instability in industry?

MR. BURT: To tell you the truth, it could, but that has not been the history.

MR. MYERS: You would not recommend a longer term?

MR. BURT: We would recommend forever if we could get away with it but no, seriously speaking, we have not been too much bothered by the ten months' regulation.

MR. MACAULAY: How many times, in fact, has your union been displaced under that section?

MR. ELDON: Twice, I think. And in either case I do not think we worried too much.

MR. MACAULAY: In how many years?

MR. ELDON: Fifteen or twenty.

MR. MACAULAY: So it does not seem to

be something that is wearing you down.

MR. BURT: It works both ways you know. It is a challenge to a company to look after the union because they can be challenged, too.

MR. YAREMKO: How often have you displaced other unions?

MR. BURT: That record is considerable.

MR. ELDON: We would rather not mention it.

MR. BURT: Many, many times. As a matter of fact, in the height of the organization of the various unions in industry such as steel, electrical workers, U.A.W. and other industrial unions we replaced company union after company union all the way down the line and some of them have been in business for as long as thirty years.

MR. MACAULAY: What about non-company unions?

MR. BURT: You mean a regular, legitimate union. We haven't replaced any that I can remember.

MR. MACAULAY: So those which have been displaced have been all company ---

MR. BURT: Company-dominated unions.

MR. MacDONALD: Which goes to prove that most of your dissatisfaction is with your company-dominated unions.



MR. MACAULAY: I do not think that follows. I think a company union would not be able to fight in the same way.

MR. MacDONALD: A company union has more resources than a legitimate union.

MR. BURT: A company union has the resources of the company and are in a pretty good position to fight.

MR. MacDONALD: Here, here.

THE CHAIRMAN: Shall we proceed to Section 8. Section 9. In this section you merely want to change the onus. You want us to recommend that the onus section be changed so that the onus will no longer be on you.

MR. BURT: That is right.

MR. MacDONALD: What has been the thinking as to the questioning of petitioners who may represent company unions where you have those included. Presumably, this is a factual situation. We have not a member of the Board here so I do not know to whom I would direct the question. The belief here is that the Board would not allow the union to cross-examine, a company union representative. The applicant can be cross-examined to the infinite detail as to the legitimacy of their organizational procedures and everything else but you cannot cross-examine a company representative.

MR. MACAULAY: The Board would cross-

examine the respondent.

MR. ELDON: The position is this: I remember two years ago at the Ontario Board a union company came up to be certified. That union company was represented by a well-known Toronto lawyer who was engaged not long after that in a famous murder trial where a prominent Ottawa woman was charged with the murder of her husband. The average guy, when he hires a lawyer he gets a lawyer because he has been hauled up for drinking and driving or something like that and the lawyer generally charges him about \$25 so the average guy thinks in terms of lawyers of about \$25. I asked this man who was paying the lawyer and he said that five of them put in \$25 apiece. That makes a total of \$125. By the time they would get through paying for their bills and other expenses it would leave about \$1.50 for you to come from Ottawa. That lawyer must have charged at least \$150. I would think these people should be charged with purjury. However, the Board expects and the onus is placed on us to prove that the company paid that lawyer. We had a case with the Ontario Board not more than six weeks ago when the employees of a local firm of one of the greatest union haters in this country, I will not mention the name, had a lawyer that must have cost at least, I figure the bill was \$750. When I asked

this Board who is paying the answer was, a few of us chipped in. The Board accepted that as evidence because the Board says it is up to you to prove the company is paying for these lawyers. We know the lawyers do not do that kind of work for nothing; we know those employees do not pay them; we know we do not pay them so there is only one other source and that is the company. I do not know what kind of proof is needed. It seems to me that circumstantial evidence ~~is~~ accepted anywhere except by the Board and I think the Board ought to make rulings on circumstantial evidence of that kind but the Board will not even allow us to cross-examine these people as to the funds, as to who is paying the lawyer unless we make charges, written charges, then we must produce witnesses to substantiate our charges and then, when the company union people give evidence in rebuttal, then we can cross-examine. Otherwise I have to say to the chairman of the Board, I want to ask him that and the chairman of the Board will decide for himself whether he will ask the question or not but there is no cross-examination of these people and I insist that the onus is on the Board because the legislation lays it down the Board shall not certify any union or any association that is influenced by the company so I insist that is the onus of the Board and it is not our onus at all. It is the onus of the Board and I

want to say before the Committee, in my opinion, the Board, and I see a Board member here, the Board has failed miserably to accept that onus.

MR. MacDONALD: How can you fulfill your onus if you cannot cross-examine?

MR. WALSH: I think that is just a tirade against the Board. They both have a right to represent those people.

MR. MacDONALD: I agree we should hear the Board.

4 MR. ELDON: This is not a tirade against the Board; I am taking actual cases. That is the practice of the Board and that is not a tirade against the Board at all.

THE CHAIRMAN: You want to be permitted to ask questions such as, where did ^{for} you get the money/those high-priced lawyers?

MR. ELDON: I had to ask through the Board and that is different than asking it directly and then being able to follow up with questions and you might then trap him.

MR. MACAULAY: Did the Board indicate why the questions must be fed through the Chairman?

MR. ELDON: The Board takes this position: They do not want anybody to go on fishing trips. They will not allow the company lawyers to go on fishing trips against us. We have nothing to hide; everybody knows who pays our witnesses.

The union pays them. Everybody knows where the union gets its money. What we want to stop is these people coming to the Board, people without any money, people without any funds who are represented by high-priced lawyers. One instance is in the Sarnia case where there were two high-priced legal firms and we know that these people are not paying them. The Board says to us, the onus is on you. But we say the onus is on the Board. We say that the legislation places that onus on the Board.

MR. MACAULAY: It strikes me that the normal way of discharging an onus is to cross-examine.

MR. MacDONALD: The very nature of the situation, the getting of this money by rather secret or devious means because it is in violation of the Act and, therefore, you can only ferret it out by the most insistent kind of cross-examination and if you have not the power to cross-examine you cannot fulfill the onus.

MR. ELDON: I am suggesting the Board should accept circumstantial evidence. There are the people, there is the loss of time, there are the lawyers. This is not a tirade against the Board. The lawyers are there and we know that lawyers want to be paid. We know these employees do not earn enough money to pay some of these

lawyers because we know who the lawyers are. We feel the Board should accept that. Unless the Board gets a satisfactory answer the Board should rule that the association is company-dominated.

THE CHAIRMAN: That is your point of view.

MR. ELDON: Yes.

THE CHAIRMAN: I think we understand. Shall we proceed to Section 11.

MR. YAREMKO: Mr. Burt, I fail to follow the reasoning between the first paragraph and then the next. Are the two related?

MR. BURT: The two things are related to Section 11 but outside of that they are not related.

MR. YAREMKO: They are ~~are~~ not related to each other?

MR. BURT: No, to the section of the Act only.

MR. MacDONALD: It is this part of the Act that puzzles me most; to prove lack of bargaining in good faith. Taking the example you have cited in Midland: If that is not an instance of failing to bargain in good faith I would like to ask what it can be described as and yes there are many other less clear of cases of failure to bargain in good faith. I would like to put this

question to Mr. Burt: How do you feel it can be pinned down/^{to}in the Act so you can say from conditions that have arisen this is failure to bargain in good faith.

MR. BURT: This is the second time we have this situation where a strike has occurred and the employer may feel he is in a strong position and refuse to bargain at all. There is nothing in this Act that says as a result of the strike bargaining in good faith ceases. There is nothing in the Act that says that. During a strike the gentleman at the Department of Labour, I am not reproaching them, but in all the squabbles we have had in the last number of years, generally, they try to get the parties together during a strike. In this particular instance they were not able to do it. So we petitioned the Board for the right to prosecute the company for the failure to bargain at all which we say is failure to bargain in good faith and the Board turned it down. All we get from the Board is word that your petition has been considered and decided against you and therefore dismissed. In this case the Board did say we recommend that the parties get together forthwith. And that is what they said. I do not know how long that is now but I have had word that Mr. Metzler has been working on this one for some time since the Board made this decision, this recommendation

and we have not been able to get the company to sit down yet.

MR. MACAULAY: Have you asked for reasons by the Board?

MR. BURT: Yes.

MR. MACAULAY: Have you read them?

MR. BURT: I have not got them.

MR. MACAULAY: Because you said

"-- the company continues to

"violate the law and gloat over

"the interpretations of the Board."

MR. BURT: The interpretation of the Board was that we did not have the right to prosecute.

MR. MACAULAY: Because, apparently, there had been no refusal to negotiate. There had been no lack of bargaining in good faith.

MR. BURT: I have no idea how the Board arrived at their decision . except for one thing and I talked to our lawyer, we had engaged Jolliffe, Lewis and Osler to represent us in this case, I talked to him and he said I think it is because they set a precedent in the case in Fort William of laundry workers.

MR. SIREN: It was Port Arthur.

MR. BURT: It was a case in Port Arthur and because of that they decided against you. Well, I read the Port Arthur case and in my

way of thinking it has not the faintest resemblance to this case in Midland. I do not have the reasons for the Board refusing our right to prosecute.

THE CHAIRMAN: Mr. Metzler, can you give us any information on this?

MR. METZLER: I can tell you this: In that particular case the union -- I am not sure of the conciliation procedure -- there were negotiations between the union and the company with the assistance of the conciliation officer, a Board was established and reported and then the strike occurred. Beyond that, to tell you the basis of the decision of the Board, no, I do not have it.

MR. MacDONALD: Mr. Metzler, may I ask you this question: I do not know when the request was made, rather, I do not know whether when the Minister of Labour asked the parties to meet in his office it was at the end of five or six months. This has now gone on for seven months and the employer has refused to attend at the Minister's Office. If the situation has gone on for seven months, what greater evidence do you want as evidence of failure to bargain in good faith?

MR. MACAULAY: I think I can see the difference now: Failing to negotiate and failing to bargain in good faith must take place before the strike starts. Once the strike starts there is nothing in the Act that says either party must

negotiate.

MR. BURT: There is nothing in the Act that says the parties can cease to bargain in good faith after the strike has started.

MR. MACAULAY: Does that not mean bargaining up to the strike?

MR. BURT: No, bargaining goes on until an agreement is reached.

MR. MACAULAY: I think the reason bargaining does not go on after a strike commences is because a strike is a powerful weapon.

MR. BURT: The strike is not the end of everything. When strikes occur, in 99 per cent. of the cases, an agreement is negotiated.

THE CHAIRMAN: What are these people, the Canadian Name Plate Company, doing?

MR. BURT: They are operating.

THE CHAIRMAN: With what sort of employees?

MR. BURT: I would not want to describe them but they have a sufficient number in there to, at least, get out their production in a partial manner. I do not know to what extent or in what way or anything. The strike has been going on since 1956.

THE CHAIRMAN: Are they operating as a result of strike breakers?

MR. BURT: They are operating as a result of strike breakers.

MR. YAREMKO: Do you not think that Mr. Macaulay has given us what, I imagine, ~~are~~ the reasons of the Board. The Act has set out the trade union movement has a weapon, the weapon of strikes. It gave up its weapon of strike to come in under the Labour Relations Act which sets out the procedure which must be followed by both parties until a certain period in which all the procedures under the Act have been exhausted and then you refer to a situation where the Act no longer applies.

MR. SIREN: I am afraid you are wrong.

MR. BURT: You are reading something into it that is not there. No. 1, the Act does not give us the right to strike.

THE CHAIRMAN: It says it is legal to strike after certain things have been done.

MR. BURT: It does not even say that. It says you may not strike unless ---.

THE CHAIRMAN: It is an implied right.

MR. BURT: With an equally strong implication in the Act that after you are certified you bargain in good faith until a collective agreement has been reached. It says nothing about a strike interfering with that.

MR. MacDONALD: The strike is like a Conciliation Board; it is one of the technicalities or procedures along the line to get your collective

agreement.

MR. BURT: The Board itself must recognize that because the Board said in this case, we recommend the parties get together forthwith. They deny our right to prosecute, for some reason or other, but they say, you people should get together because they must have realized under the Act that a strike ---.

MR. METZLER: There are two schools of thought in connection with this situation. There is the school of thought as expressed by Mr. Burt that there is a continuing obligation on the parties to bargain even with the occurrence of the strike or lock-out. The other school of thought is that having exhausted the procedures and not having been able to settle the dispute then the parties should realize only if they so desire do they go back into bargaining. I am not in a position to comment on either school of thought but I do want to make this observation; that Section 53 of the Act has an important bearing on this situation.

"Where notice has been given under
"section 10 or section 38 and no
"collective agreement is in operation,
"no employer shall, except with the
"consent of ~~the~~ trade union, alter
"the rates of wages or any other term
"or condition of employment or any

"right, privilege or duty of
 "the employer, the trade union or the
 "employees, and no trade union shall,
 "except with the consent of the
 "employer, alter any term or condition
 "of employment or any right, privilege
 "or duty of the employer, the trade
 "union or the employees,

"(a) until conciliation
 "services have been granted and
 "seven days have elapsed after the
 "conciliation board has reported to
 "the Minister or the Minister has
 "informed the parties that he does not
 "deem it advisable to appoint a con-
 "ciliation board; or

"(b) until the right of the
 "trade union to represent the employees
 "has been terminated, whichever occurs
 "first."

There was an amendment to that section at the last
 session of the legislature by adding subsection (2).

"(2) Where notice has been given
 "under section 38 and no collective
 "agreement is in operation, any difference
 "between the parties as to whether or not
 "subsection 1 of this section was complied
 "with may be referred to arbitration by

"either of the parties as if the
"collective agreement was still in
"operation and section 32 applies
"mutatis mutandis thereto."

The fact is both parties were under obligation to maintain, as it were, a status quo in relation to each other until such time as procedures have been exhausted. Thereafter, either the employer or the trade union, for instance the employer, after the conciliation board had reported and seven days had elapsed would be in a position, if so desiring, to alter those conditions of employment.

MR. MacDONALD: Mr. Metzler, may I ask you this question: I understand the order for the parties to get together was made by the Board after the strike took place.

MR. METZLER: The Board could not order them, the Board recommended.

MR. MacDONALD: The recommendation of the Board.

MR. METZLER: I have spoken to Mr. Fine and we have discussed this situation. There have been a number of efforts made and they have not been successful.

THE CHAIRMAN: There is a statement here and I am assuming it is a correct statement of the facts.

MR. BURT: It is correct.

THE CHAIRMAN: "The president of
"the company on two occasions has
"turned down a request by the Minister
"of Labour of this province to meet
"him in his office in Toronto, with
"the union representatives, for the
"purpose of trying to obtain a solution."

Is that statement correct?

MR. METZLER: I cannot say of my own
knowledge because the statement does not arise from
any action in which I took part. Any knowledge I
have would have come to me out of discussions I had
with Mr. Fine or other officers.

THE CHAIRMAN: If it is correct it is a
very serious breach on the part of this company.

MR. METZLER: I will check.

THE CHAIRMAN: I am assuming this is correct,
Mr. Burt.

MR. BURT: It is correct.

MR. YAREMKO: It is not a directive but
it is in the form of a request.

THE CHAIRMAN: A request from the Minister
is something that should be considered by the
company.

MR. YAREMKO: But he is not legally
bound to accede.

MR. WREN: We are talking about good

faith.

MR. YAREMKO: Mr. Burt, am I right in thinking that your opinion is: If the interpretation of the Board of Section 11 is correct then you would recommend a further section to Section 11 which would clearly state that even if a strike exists the parties must continue to bargain in good faith.

MR. BURT: That is right.

MR. MYERS: How can you continue to bargain in good faith if the employer says, I cannot or will not pay any higher wages.

MR. BURT: I do not think bargaining in good faith implies the paying of any wages. During the war we bargained and we could not discuss wages.

MR. MYERS: But it is costing the employer money.

MR. BURT: It may not cost him any money. There are many other things: There was one case where we were bound and determined not to lose the cost of living bonus. One of the most important things is the right to go and talk to the boss through the union. There is the matter of working conditions, seniority regulations.

MR. MYERS: But supposing they cannot pay higher wages.

MR. BURT: If they cannot pay more wages

than they are paying now they should not be in business in Canada.

THE CHAIRMAN: Gentlemen, it is now 4.00 o'clock. The submission from this organization has not yet been completed, as you see. I regret, Mr. Burt, it is going to be necessary to ask you to come back again and continue the presentation because there are some very important parts in this submission with which we have not as yet dealt. I would ask the Secretary to contact you as to the date that will be mutually convenient for yourself and for the Committee.

MR. BURT: Thank you, Mr. Chairman. We are very pleased that the Committee has given us this amount of time.

THE CHAIRMAN: We do not want to cut you off.

MR. MacDONALD: In any rescheduling in which the latter portion of this may come up, I make the suggestion if on that occasion it would be possible to have Mr. Finkelman here because it seems to me this question we are now discussing is pretty important.

MR. METZLER: I regret to have to announce that Mr. Finkelman and Mr. Reed are both victims of the flu.

THE CHAIRMAN: As is Mr. Reaume, I understand he is quite sick. He fully intended to

be here.

THE CHAIRMAN: Mr. Secretary, as you know the tour of the St. Lawrence Seaway Project has been arranged for Thursday, October 31st. The plans have been made for the members of the legislature to leave Toronto Union Station on Wednesday, October 30th, at 4.15 p.m. It seems that the majority opinion of the members of this Committee is that we, as members of the legislature, should participate in that tour. I notice on the schedule of hearings, Mr. Secretary, there is nothing arranged after the 29th of October, for the rest of the month and I would suggest you get another brief, another submission, for Wednesday, October 30th and we will sit on that day from 10.30 o'clock in the morning until 3.00 o'clock in the afternoon.

MR. PERKINS: Since that schedule was made out I did make another appointment. I have an appointment for the 30th.

THE CHAIRMAN: Does that meet with the approval of the members of the Committee?

GENERAL RESPONSE: Yes.

THE CHAIRMAN: I would ask the members of the Committee to read the minutes of the meeting that have been furnished to us so that we can ask that there be a direction or a motion tomorrow morning. This hearing is adjourned

until 11.00 o'clock tomorrow morning.

---Whereupon this hearing adjourned at 4.00 p.m.
to resume at 11.00 a.m. Wednesday, October 16, 1957.

LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,
Queen's Park, Toronto, Ontario

Wednesday,
October 16, 1957

JAMES A MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH, Q.C.	Committee Counsel

MEMBERS:	G. E. Jackson
	Donald C. MacDonald
	Ellis P. Morningstar
	Raymond M. Myers
	Arthur J. Reaume
	H. Leslie Rowntree
	J. W. Spooner
	Albert Wren
	John Yaremko
	Robert Macaulay

APPEARANCES:

Mr. J. B. Metzler	Deputy Minister of Labour
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UNITED ELECTRICAL, RADIO AND
MACHINE WORKERS OF AMERICA (UE)

Mr. C. S. Jackson	President
Mr. George Harris	Secretary-Treasurer
Mr. Ross Russell	Secretary-Organizer
Miss Idele Wilson	Research Director

APPEARANCES (Continued)United Electrical, Radio and
Machine Workers of America (UE)

Herb Taylor	Local 522, Kingston
Roy Holmes	Local 525, Toronto
Ed Vickers	Local 521, Toronto
A. Polovich	Local 536, Niagara Falls
W. Snyder	Local 536, Niagara Falls
Bud Moran	UE Joint Board, Toronto
Keith Massey	Local 541, Guelph
Charles Young	Local 529, St. Catharines
Kitty Loucks	Local 524, Peterborough
Carl Signorotti	Local 524, Peterborough
J. Brown	Local 520, Hamilton
Gerald Ettinger	Local 535, St. Catharines
Jame Sawatsky	Local 535, St. Catharines
James Buchanan	Local 504, Hamilton
Wm. J. Ninans	Local 523, Welland
Archie Morden	Local 523, Welland
Nick Farkas	Local 523, Welland
John Landry	Local 505, Niagara Falls
John McNally	Local 505, Niagara Falls
R. P. Wilkinson	Local 514, Toronto
James O. Wiley	Local 523, Welland
J. Henderson	Local 523, Welland

THE CHAIRMAN: Gentlemen, it is now eleven o'clock and this morning we will hear the brief of The United Electrical Radio and Machine Workers of America. The representatives here submitting this brief are as follows:

C. S. Jackson, president; George Harris, Secretary-Treasurer; Ross Russell, Secretary-Organizer; Idele Wilson, Research Director; Herb Taylor, Local 522, Kingston; Roy Holmes, Local 525, Toronto; Ed Vickers, Local 521, Toronto; A. Polovich, Local 536, Niagara Falls; W. Snyder, Local 536, Niagara Falls; Bud Moran, UE Joint Board, Toronto; Keith Massey, Local 541, Guelph; Charles Young, Local 529, St. Catharines; Kitty Loucks, Local 524, Peterborough; Carl Signorotti, Local 524, Peterborough; J. Brown, Local 520, Hamilton; Gerald Ettinger, Local 535, St. Catharines; Jake Sawatsky, Local 535, St. Catharines; James Buchanan, Local 504, Hamilton; Wm. J. Ninans, Local 523, Welland; Archie Morden, Local 523, Welland; Nick Farkas, Local 523, Welland; John Landry, Local 505, Niagara Falls; John McNally, Local 505, Niagara Falls, R. P. Wilkinson, Local 514, Toronto, James O. Wiley, Local 523, Welland, and J. Henderson, Local 523, Welland.

Who will be presenting the brief?

MR. RUSSELL: I will present the brief, Mr. Chairman.

THE CHAIRMAN: Thank you. The system

we have been following is that the brief will be read in its entirety and then when the reading is concluded we will start to consider it page by page. Would you be good enough to proceed, and you may sit down if you prefer to do so.

MR. RUSSELL: Thank you, Mr. Chairman.

---(Mr. Russell reads brief from page 1 through to page 15, the end of the second paragraph)

I should add that language may be a bit strong in relation to some checks we made on it a little later on, and the same applies to the other language I have used about the waiting period.

---(Reads brief from page 15 through to the end)

THE CHAIRMAN: Thank you very much.

Now, then, gentlemen, we shall follow our usual practice and I would ask you to turn to page 1 of the brief. You will observe that at the beginning we have a reference as to the page in the brief to which reference is made of certain sections. Is there anything arising out of page 1 of the brief? Page 2?

MR. MacDONALD: Mr. Chairman, just this general comment in regard to the proposal for a preamble. This proposal has been made on a number of occasions and I must confess that personally I find it more and more a valid proposition

because of the fact of the varying approach of people who are presenting briefs to the Committee. I mean, there obviously is a very wide difference of opinion as to what the purpose of the Act is, and, therefore, surely without guessing it should be spelled out in the preamble. I think that is what they seek here without committing themselves to that particular wording.

MR. MYERS: I do not think there is any preamble

MR. MacDONALD: That is no reason why there should not be.

MR. MACAULAY: Well, the preamble not being part of the Act will have no effect on the interpretation given to the Act, so I cannot see very much advantage in putting it in unless we put it in all Acts and provide that all Acts have it and it must be treated as part of the Act and it becomes part of the enactment and ceases to be a preamble.

THE CHAIRMAN: I think that is sound, Mr. Macaulay, but really what you gentlemen have brought up is something for us to discuss in committee when we are considering our recommendations. It is presented to us by this organization that there should be a preamble.

Miss WILSON: Mr. Chairman, possibly as an alternative to an actual preamble a title

that might convey the meaning or the purpose of the Act would serve the purpose.

THE CHAIRMAN: Anything else on page 2? Page 3, in which the suggestion is made that Sections 45 to 48 should be inserted immediately after Section 3, and it is further dealt with on page 4.

MR. MacDONALD: The second paragraph where it says:

"It is rather commonplace, for
"example, to have employers call
"meetings ---"

This in my interpretation was obviously a violation of the Act. I am interested in the fact that it should be described as commonplace. May we have a few examples of it?

MR. RUSSELL: Oh, yes. Mr. Chairman, we say it is commonplace for two reasons. One is because it happens so frequently, and, two, because the Board in its administration does not frown upon it as a violation of the Act.

THE CHAIRMAN: Could you give us a few examples of it?

MR. RUSSELL: Yes. In the matter of a relatively current case, The Canadian Gypsum Company in Guelph; they frequently held meetings, what we call captive meetings; that is, they were paid even beyond their working time. Their normal working time was four o'clock and in that case they

went on for fifteen or twenty minutes. This came out in evidence, and the workers received even more than their normal pay. They were there for three-quarters of an hour or an hour getting overtime -- not at time and a half but at their regular rate.

In this particular instance a vote was conducted and despite the company having captive meetings of the type they refer to here, the union won the vote by the required amount. The company was able to go before the Board and say -- I mention this case because it shows a counter-balance with the union -- that there should be a second vote. The reason they said that was that we had a district council meeting in the City of Guelph which had been planned four months in advance on a Saturday and Sunday. The vote was on the Monday, a silent period. At our district council meeting I as secretary-organizer gave a report to our delegates and of course there was a report of the officers and so on. A reporter from the radio station was sent down. This came out in evidence; it is all before the Board, because the manager of the radio station was subpoenaed. The manager came down and gave this evidence and he sent a reporter down to our convention. The reporter came to the door and the man on the door said, "I am sorry, we do not admit reporters." The reporter said, "I think

I may be admitted. Will you make inquiries?"

The man at the door went to the head table and inquired and came back to the reporter and said, "I am sorry, you are not allowed in; it is a closed meeting." Despite that, the reporter hung around in the lobby and I do not blame him for this. Very reluctantly the evidence came out by the manager. The reporter hung around the lobby, and the delegates came out and left their kits around and he happened to pick one up and from the printed reports he published on the radio and in the newspapers statements which had been made in our ordinary course. The Board found as a counter-balance to the company holding meetings that this was sufficient to order a second vote, and the second vote the union won but they did not win it cleanly in the sense of the Act because in the second vote eleven voters refrained from casting ballots as a result of a second captive meeting that the company held. Again they held a meeting for over three-quarters of an hour, fifteen minutes extending beyond their working hours; and that matter is still before the Board and the Board has not made a final disposition of it.

That is just one of the many I could mention, and this is a current case.

MR. MacDONALD: Apart from the specific instance of this case, which I would certainly like to have some evidence from the Board on,

the thing that intrigues me is the proposition claimed by Mr. Russell that the Board does not frown on a captive meeting in which management goes to great lengths to malign the unions in general. This surely is in violation of the Act.

THE CHAIRMAN: Have you any instances of that?

MR. C. S. JACKSON: Mr. Chairman, I would like to give a few instances. For instance, our organization is active in organizing the workers of the Canadian General Electric Company and the Canadian Westinghouse Company, and over the period of the last several years there have been a number of instances where the company have transferred a department or section of the plant to a new location, built a new plant. In every case we feel it is our obligation to organize the union in that situation. I would say almost without exception, in both General Electric and Canadian Westinghouse, the companies have held meetings with those employees designed to discourage the employees from taking up membership in this union. The types of meetings they hold -- in some cases, in General Electric, they have what they call information clinics, which is supposed to be part of their Relations policy between the company and the employees with regard to what is transpiring on the production front. In the course of the information

clinics frequently they find the opportunity to impart their position with regard to the union and to deliberately and quite openly at times frown on their workers taking part in any union activities and specifically put on the record the company's attitude towards this, that or the other union.

I say we can quite safely make the statement that it is commonplace in organizing any parts of those two groups in particular.

I think if we were to scrutinize the record of the last five years in particular of applications made by these unions -- and I think if we had access to the facts in regard to other unions -- I would think we would find better than fifty per cent of the cases where the employer has in one form or another called a meeting designed solely for the purpose of discouraging the employees from joining the union that they are obviously choosing at that time. I think the record would bear that out.

MR. MacDONALD: You use the word "malign". That is rather a strong term. Do you mean to say discourage unions or to actually malign them?

MR. C. S. JACKSON: Perhaps malign, if I may add or interpolate this, it is commonplace for the employer to always prefer some other union regardless of which union happens to be in

there making the test; the employer will always express -- usually express, I should say -- a preference for some other union rather than the one that is making the test, and that is true regardless of who the negotiating union may be.

MR. G. E. JACKSON: In connection with the statement you made, Mr. Russell, and the examples you gave of Canadian Gypsum, you are saying that is definitely contrary to what is set forth in the Act under Section 48(2). You say there was persuasion during working hours; is that what you are saying?

MR. RUSSELL: That is correct. It goes further than that.

MR. G. E. JACKSON: Let us deal with that for a moment. Was it brought to the attention of the Board; did they know about this?

MR. RUSSELL: The Board had, I think, five or six hearings of this case, some hearings lasting from nine-thirty in the morning right through to five o'clock at night. We had lengthy evidence from both sides, from all parties. The Board in that case, I would say, is fully appraised of everything I have set out for the Committee.

If I might bring up a current case, one could give a wealth of information that goes back five or ten years, but here we have a situation where this very day a vote was conducted in a plant called Supreme Power in Metro Toronto, in Mimico.

To be precise, this came about: there were meetings of the type we referred to here where the employer spoke to his employees and said to his employees, "I am taking this down on tape, do not misrepresent what I say." It goes further than that. If I might just put together a few cases, because these things all lump together. We filed paid membership cards for the 60 per cent -- I think it was 67 per cent -- and they filed petitions bringing us below the 55 per cent. Of that 67 per cent one man who worked for the company signed up about 80 per cent or 85 per cent of them and he was discharged. We had a commissioner's hearing, and the commissioner said in conclusion:

"In a case of this kind, it is
"not enough for me to think or guess
"or suspect or imagine that the com-
"plainant was discharged for his
"union membership or activities;
"I must be satisfied on the prepon-
"derance of the evidence in the com-
"plainant's favour that was so.
"No matter how harsh or arbitrary I
"might think the company's action
"was in this case, I am bound to
"find, as I do, that the complainant
"was not discharged for union activi-
"ties or union membership and

"consequently that a dismissal did
"not contravene any provision of the
"Labour Relations Act."

On the other side, what does the employer do? A couple of days ago every worker received on a Ditto machine copy a document -- the Chairman, I think, mentioned the word "malign".

THE CHAIRMAN: It is in the brief.

MR. RUSSELL: This is entitled "A Report from your Fellow Workers". Now, it cannot be a report from their fellow workers. It was -- and we have made the Board acquainted with all this information -- it was sent out in typewritten envelopes.

MR. WREN: What firm is this?

MR. RUSSELL: Supreme Power, sent out in typewritten envelopes. We told the Board that some people -- at least we are prepared to adduce some evidence -- some people had moved recently and no one knew their new addresses except the company.

This goes on to malign the unions in every way possible, or in many ways. For instance, they say:

"They claim to have 57 cards
"signed and paid by UE members.
"Do these 57 cards include the
"people that have written to the

"union office and asked that their
"names be taken off the union
"membership?

"Ask Mr. Russell.

"They claim that the compul-
"sory \$1 entry fee into the union
"was paid by the person signing
"the UE cards.

"Were all the dollars paid
"by the member signing the card or
"did someone else pay the dollar?"

They never raised the question to the Board although
to the employees it is suggested there was some dirty
work afoot.

THE CHAIRMAN: Who was the author of
that?

MR. RUSSELL: It is unknown. It is con-
trary to Section 56 of the Act. The form letter
continues:

"So if we do have a secret
"ballot, remember, think wisely
"before you sign your name."

You gentlemen know, and we know, you do
not sign your name on a ballot.

THE CHAIRMAN: Could you file that?

MR. RUSSELL: I will be glad to. I would
say in addition, we filed this with the Labour Re-
lations Board three days ago and asked that they

not hold the vote this morning. We had only gotten hold of this and asked for a chance to show that this company had a long record of anti-union feeling and they could listen to the evidence and a lot of other evidence. Unfortunately the Board refused to do this and the vote has gone ahead.

THE CHAIRMAN: Could you also file that report with the commissioner's remarks in it?

MR. RUSSELL: Yes, certainly.

MR. G. E. JACKSON: Is there no penalty for violation of Section 48 of the Act?

MR. METZLER: There is a general penalty section in the Act which deals with any violation of the Act.

MR. G. E. JACKSON: Well, from the evidence given ---

MR. METZLER: Section 61.

MR. G. E. JACKSON: It would appear Section 48 is violated. Now, in your opinion have you ever -- at least in your experience have you ever known where action was taken as a result of section 48 being broken, either taken under section 61 or ---

MR. METZLER: I could not say offhand. I think the only person that might answer that would be the chairman or the vice-chairman of the Labour Relations Board because all prosecutions under the Labour Relations Act must start by making

an application to the Labour Relations Board for leave to prosecute.

THE CHAIRMAN: I understand both the chairman and vice-chairman are absent through illness?

MR. METZLER: That is right. I was hoping Professor Finkelman might be here this morning, but he is not.

MR. WREN: This decision to hold the vote you referred to, is that a unanimous decision of the members of the Board hearing your complaint?

MR. RUSSELL: We have no way of knowing that. When we got that document that I filed in here these things which had transpired had all transpired within the last few days, and I communicated by telephone with the chairman of the Board and sort of at his request -- that was last Friday at three o'clock -- I reduced to writing the complaints filed, a copy of that document, sent it down by messenger to have it before the Board which was meeting in executive session at four o'clock. We got it to the Board about four-thirty. All we know is that we got a document back from the Board -- all we know is we received on Tuesday and the company received it earlier -- a statement, and this was a most unusual action. The Board had sent a statement to the company and I do not have it here, for posting, additional posting in

their normal posting, and this admitted there was a violation of Section 56 in that that document is not signed and that there shall not be any violations of Section 56 and then say that you do not have to sign a ballot. This is incorrect; you only mark your "X" in the place of your choice. We have no way of knowing whether it was unanimous or not.

MR. WREN: What I am interested in learning, and in other cases as well, does the labour representative or the Labour Relations Board in taking part in the decisions handed down ever issue any protest to the action of the Board?

MR. RUSSELL: There are cases on record where they have made strong minority ---

MR. WREN: In this case you have not contacted the labour representative at that hearing, so you do not know?

MR. RUSSELL: No.

MR. G. E. JACKSON: Is there a decision yet?

MR. RUSSELL: They went ahead with the vote today.

MR. HARRIS: The decision of the Board was made in executive session. Therefore, there is no written or oral report as far as we are concerned. I think this case really raises some very interesting points in connection with the Labour Relations Act.

MR. WREN: I am a bit disturbed about the frequency of these cases.

MR. HARRIS: Firstly I would say this application is not attempting to interfere with the work of the Board. We appreciate very much that the Board has a very difficult job to administer the various complexities of the Act and in the volume of cases that comes before it. Of course, we have had many cases before the Board on which we have no cause for complaint. We naturally have a number of cases on which we feel that the decision of the Board was rather unfair and stretching the interpretation of the Act. You see, this Supreme Power case, for instance. The document we have filed with the Board was in direct violation of the Labour Relations Act which provides that any document issued shall say who it was issued by and when and the address of the issuing party. This is an anonymous document. This was brought to the attention of the Board by Mr. Russell when he asked for a postponement of the vote and a re-hearing. The Board in denying the request for a postponement of the vote nevertheless caused to be forwarded to the plant a document with instructions to the company to post that document and on the document the Board itself said that there had been a violation of the Act inasmuch as this particular document was not signed.

THE CHAIRMAN: In fact, this document, as I recall it having been stated, was represented to have come from one of your fellow workers; is that not right?

MR. HARRIS: It infers ---

MR. RUSSELL: Read the heading and you will see, "A Report from your Fellow Workers."

MR. HARRIS: It infers that now the inevitable result of that situation, coupled with the discharge of this person who was a most active union member, the calling of meetings by the employers, the whole pressure and intimidation that was on these employees, we knew in advance that at that point we could not win that vote and it would not reflect the free choice of the employees in the way the Act envisages it.

Just before we came to this meeting this morning we got the result of that vote which we did not win. By the way, we completely disassociated ourselves from it; we did not participate; we did not have scrutineers; we did not go into the vote, and the result was 58 for the union and 45 against.

MR. MYERS: What do you think of this? Supposing that the vote was the vote of all the people who voted, not the majority of people qualified to vote, and supposing the necessity of paying a fee were eliminated and supposing

there was then a vote in all cases of certification and the majority ruled, and supposing, too, that the unions could say what they liked and the employer could say what he liked, up to a deadline before the time fixed for voting, and then you held a free and secret ballot; what would be wrong with that?

MR. C. S. JACKSON: What you are referring to was in operation back in the days of the labour court when there was an authorizing card. No fee was necessary. You filed an authorizing card and if we were able to show 50 per cent plus one signed the cards then a vote was ordered, following on that proof. But the proof was tested in the courts under full court procedure, then the workers from the plant were asked to stand up in the witness box under some very heavy cross-examination by some of the legal leading lights in this country. You are suggesting in every case there should be an opportunity for the employer and the union ---

MR. MYERS: Anything that weighs against either side, remove it, and have a free vote.

MR. C. S. JACKSON: I think this is the main point we make in our brief, namely that the situation is heavily weighed against the employee in the beginning.

MR. MYERS: Why?

MR. C. S. JACKSON: Because of the fact that the employer holds over every employee

the full authority of his livelihood. The Wagner Act, which was brought in in the United States in 1943, included in its preamble the statement that the Act was designed to bring about an equilibrium in the bargaining position of the employees and the employer. I think it is only in that light that one can justify the labour legislation of this kind, that it must give recognition to the evident fact that an employee, or a group of employees, as such, or all of the employees, if you will, are in an unequal bargaining position because of the power of the employer over them.

MR. MYERS: I do not know how that **is in a secret vote.**

MR. C. S. JACKSON: He has the power of intimidation. You say in a secret vote. Let us follow that through. We have an instance in the case of the Atlas Steel Company in 1943, at the time of the Labour Court. The Atlas Steel Company at that time in attempting to prevent the workers from expressing their true wishes in a government-conducted vote lined up its foremen and its plant guards armed with sidearms along the street between the plant and the court house where the vote was to be taken. That is open intimidation of the employees.

MR. MYERS: I do not understand how they could possibly intimidate them.

MR. C. S. JACKSON: I suppose the employer says, "I will keep a check on who votes."

MR. MYERS: That is right, but the only people -- if a man does not vote he is not counted.

MR. C. S. JACKSON: That has not been the case.

THE CHAIRMAN: If that was the case?

MR. C. S. JACKSON: If that was the case there is still the feeling that on the part of the employee in the shop that the very fact he goes to vote, unless he has given some evidence beforehand, would be considered as a vote against the employer.

MR. RUSSELL: The very case we are discussing, the opposite to what Mr. Jackson says. In that case, in the Supreme case, there, between the time the Board ordered the vote and today that is a fairly short period. When the vote was taken the company gave to all of the employees who signed the petition against the union increases of from 5 cents to 15 cents an hour -- just those employees who signed the petition against the union. We know that. Now, that is pretty strong stuff. As we said, the second example is in another vote which we had very recently in the City of Brantford, with the large Canadian Westinghouse Company, and they made no bones about it. They did two things. One thing they did, they cleared a big section

larger than this room in the centre of the plant and they set up tables, and they said: "We are going to move into this section of the plant small appliances." You will appreciate in Brantford they make television sets and television set business is not very good these days and they were worried about layoffs, and the company said, "We will bring in small appliances to provide jobs."

Shortly before the vote, with that large section cleared, they made it known that if they voted for the UE they were not bringing that appliance section in. In other words, there would not be any jobs and that stood in the plant empty right up to the day of the vote.

MR. MYERS: You could not make them bring the plant in.

MR. RUSSELL: We did not ask them to, but it was a manoeuvre. Every day these workers came in ~~they~~ saw these empty tables and knew if they voted the company would close the plant.

MR. MYERS: The company said, "If we have a union here we are not going to move in the small appliance section." Why should they?

MR. HARRIS: It is force and intimidation involved.

MR. MYERS: That is what I cannot see.

MR. HARRIS: You put yourself in the position of an employee in the plant who is only '

there for a short period but knows because of the nature of the production -- TV production -- that next week or the week after he is going to have no job. The company says, "We are going to provide you with jobs because we are going to move from our Hamilton plant the manufacture of small appliances and you are going to have jobs for a longer period of time." Then, along comes a situation where there is to be a vote and the employer after making all of these preparations says to the employees -- and I want to say the employer said to the employees -- "Now, we have not yet moved from Hamilton, and we want you to know that if you decide" -- they said, "It is your right to decide, but if you decide to vote for this union who have said they are going to make us pay the same wages that are paid in Hamilton, then we are not going to move." So the choice in the employee's mind at this point, you see, is to vote for the union or vote for a job.

THE CHAIRMAN: Have you evidence that that actually was said; have you got somebody here?

MR. HARRIS: Not on this committee, but we can produce evidence.

THE CHAIRMAN: I think you should have some person here who actually had that statement made to them.

MR. HARRIS: Of course, Mr. Chairman,

we did not anticipate the line of discussion.

MR. C. S. JACKSON: On that point, Mr. Chairman, there may be some difficulty. Let us recognize the facts of life. We lost the vote in the plant, and now having lost the vote in the plant we would be asking an employee from that plant to place his or her job in jeopardy by appearing now before a Committee to give evidence as to what the company has done, and the union is powerless to help them. If this Board could accept the responsibility of giving full protection to such an employee we might under those conditions be able to offer evidence -- an employee who would appear before the Board. You can understand the problem?

THE CHAIRMAN: I can understand it.

MR. MYERS: You are dodging my question. There is an instance where there is obviously unfair practice, but you are not answering my question as to why, but remove the doubt and you cannot intimidate people. You vote and you have a secret vote and you give each side an opportunity to say whatever they like to the employees. Why would that not be fair?

MR. C. S. JACKSON: I appreciate your question, and on the surface if we were dealing with it as a theoretical proposition that would seem to meet a number of the problems being raised before the Board, but we are not dealing in theory, we are

dealing in practice. We are dealing with the problem, the struggle, if you will, for the employee's mind at that time in terms of the union presenting to the employee what the record of the union shows it has been able to do for ^{other} /employees who were organized, where the union was in a fair competitive position with the employer. However, here it is, "If you do join the union you will lose your job." It is a question of the mind of the worker and who is the master of it.

MR. WREN: I want to make a comment here. If the employers in cases like this, these allegations are true, if these employers are just going to smirk at the legislature concerning an Act which is already passed, what hope have we ^{their} of/paying attention to a new Act?

MR. MacDONALD: In that connection, can Mr. Metzler give us any indication -- you may have to check the records -- of how often the penalties under Section 61 are applied? Do they mean anything at all? Are they ever applied?

MR. METZLER: Yes, there have been prosecutions under the Labour Relations Act.

MR. G. E. JACKSON: Under Section 61?

MR. METZLER: Section 61 is the general section.

MR. G. E. JACKSON: That is the one I asked you about before; that is the one we are

interested in.

MR. MacDONALD: How frequently?

MR. METZLER: I would say infrequently. Prosecutions are carried by the parties that want to ask for leave to prosecute. Now, I believe that we supplied some statistical material back in June.

MR. MACAULAY: I think three or four ---

MR. METZLER: And there were indications of a number of prosecutions that were held.

MR. YAREMKO: The vast bulk of them have been withdrawn. The application for leave to prosecute had been withdrawn from fifty to one.

MR. G. E. JACKSON: In other words, if nobody prosecutes or asks for leave to prosecute they can break the Act and nothing can be done?

MR. MacDONALD: Is this not a strange procedure?

THE CHAIRMAN: Order, please. Let the questions proceed in an orderly fashion.

MR. G. E. JACKSON: Am I right in saying that if nobody asks for leave to prosecute nothing happens?

MR. METZLER: Well, it is just like the Highway Traffic Act, if a person speeds and he is not caught nothing happens.

MR. MacDONALD: But if it is brought to

your attention and evidence is given that he violates the Act, does not the prosecution rest with the government that passes the legislation?

MR. METZLER: No, we have not taken the initiative.

MR. MYERS: Why bother having the leave to prosecute; what is the purpose of trying to get a possible prosecution, as it were?

THE CHAIRMAN: The situation, as I understand it, Mr. Metzler, is that first you must bring the alleged infraction to the attention of the Board and then obtain leave to prosecute?

MR. METZLER: That is right.

THE CHAIRMAN: But the Board does not institute the prosecution proceedings and it is apparently the big objection to this feature of the Act, as I see it.

MR. MacDONALD: Are there other Acts in which violations are handled in this fashion?

MR. YAREMKO: Yes.

MR. McCaULAY: Mr. Chairman, we pointed this out the other day. The whole issue is simply -- we have put on the record once before -- should the onus of prosecution be left with the government to support and maintain its own legislation or should it be left with the complainant? Now, we have already put that on the record once, and we went on, I think, for five minutes to various Acts under

which it was left to the individual subjects of Her Majesty the Queen. We even itemized the other Acts under which it was left up to the government.

MR. RUSSELL: I was wondering if I might ask Mr. MacDonald or Mr. Macaulay for a specific example? Our union rarely uses this prosecution procedure because it is so ineffective. However, we have had occasion to use it. The last occasion we had to use it the circumstances were as follows: We organized in a small plant over one week end, Saturday and Sunday. The plant had about forty-odd people and the name of the plant was Joice & Smith in Hamilton. On Monday the company had occasion to discharge 27 people out of 40. We had applied for permission in the first instance -- we applied for a declaration of illegal lockout and the company applied for a declaration of an illegal strike. The company's application was dismissed, the union's application was upheld. There was an illegal lockout. We applied on the 22nd day of August.

MR. MacDONALD: What year is this?

MR. RUSSELL: 1956. I am sorry, I did not give you the right date. Our lockout on the 22nd day of August was the day that the Board -- we applied for a declaration on the 22nd day of August, 1956, and on October 11th the Board gave

a decision that the lockout was illegal.

MR. MACAULAY: What date was the lockout supposed to have taken place?

MR. RUSSELL: The 22nd of August.

MR. MACAULAY: You applied the same day?

MR. RUSSELL: That is right. On October 11th they declared it an improper lockout, whereupon we made an application on November 7th for permission to prosecute the company and on November 29th the Board gave us permission to prosecute the company. That was 1956. The prosecution has been delayed in the courts and we have not yet had a decision of the case.

THE CHAIRMAN: Has it been tried?

MR. RUSSELL: I do not think the trial has been had. It has been procrastinated.

THE CHAIRMAN: Who is prosecuting it on your behalf?

MR. RUSSELL: Unfortunately I cannot recall the name of the lawyer. He was a Hamilton lawyer we engaged for the task.

THE CHAIRMAN: What reason does he give for the delay?

MR. RUSSELL: Mr. David Lloyd George Jones, of Hamilton, and the magistrate put it over.

THE CHAIRMAN: Who is David Lloyd George Jones?

MR. HARRIS: Obviously not a Welshman.

MR. RUSSELL: He is a somewhat infamous lawyer in regard to labour relations. He is well known acting both for company unions and companies. That is not the end of this case. That is the end of that side of it.

On August 22nd, the same date we applied for permission for a declaration of an illegal lock-out we also applied for a commissioner on the grounds that these people were improperly discharged. On October 29th we got a recommendation from the commissioner recommending that the people be taken back and back pay paid. The company refused to implement the recommendation of the commissioner. I was in touch with the officials of the government, Mr. Metzler and Mr. Daley, and Mr. Metzler arranged for Mr. Daley to issue an order. I am not certain of this, but I do not think an order has been issued very many times. Mr. Daley issued an order of the government and the company still to this day has not paid those workers the money they are entitled to and the workers are scattered here, there and everywhere.

MR. MYERS: Why could not that be permitted if the Act gave the union the power to issue on behalf of a worker for damages equal to the award of a Board?

MR. RUSSELL: We do not want the power to issue. We want the government to uphold the

legislation which you in your wisdom decided on in the Act and put on the statutes of this province.

MR. MYERS: How are you going to enforce the arbitrator's award?

MR. RUSSELL: I know from experience when I exceed the speed limits that Mr. Metzler refers to, and I am caught, the government upholds that and I pay.

THE CHAIRMAN: I would gather from this document, Mr. Russell, that whoever is the author of it is not very friendly disposed towards yourself?

MR. RUSSELL: Apparently not, sir. By the way, I was not able to file an envelope with you. I filed one with the Board. I should make that distinction although frankly I do not know the people there. That is an interesting sidelight.

THE CHAIRMAN: You must have more information as to who the ringleader might be and what is, I think could be properly described as the company employer organization here. You must know that, and your informants must have given you the identity of who this representative of management was who said, "Now, we are going to have this portion of our plant for appliances and if you vote for the union that won't be here."

MR. RUSSELL: That does not apply to this case.

THE CHAIRMAN: I just want to deal with

that first and come back.

MR. HARRIS: In the record we did file with the Labour Relations Board a document setting out our complaints as to the actions of that particular employer including the incidents that I have mentioned about saying that there would be no jobs for the employees, and that is all filed with the Labour Relations Board.

THE CHAIRMAN: And you know the identity of the person who made the statement?

MR. HARRIS: Yes, we do.

THE CHAIRMAN: I think you should give us that name to see whether or not we want to deal further with that individual.

MR. HARRIS: I would prefer you to go to the records of the Labour Relations Board because I do not want to speak from memory, Mr. Chairman, or off the cuff. I do not want to do anyone an injustice.

THE CHAIRMAN: Between the time we quit today and two o'clock you could ascertain that, and we want to know who it is.

MR. HARRIS: It is possible I could do that.

THE CHAIRMAN: That is the membr of the employer organization who made the statement that you referred to about setting up this part of the plant for appliances to keep people longer at work

when the TV production fell off.

MR. HARRIS: The member of management?

THE CHAIRMAN: Yes.

MR. MacDONALD: There is another aspect of this arising out of the comment about captive audiences and management making statements maligning the unions, and so on. The thing that interests me is, last week we heard a representation from the Automobile Chamber of Commerce in which one of the requests they made was that there should be an amendment to the Act to provide what they described as channels of communication so they would be permitted to express their views on whether there should or should not be a union, and so on.

Now, if this evidence is the case they not only have such channels because it has authority by the Board, but they use it in violation of the Act.

THE CHAIRMAN: This instance is clearly a violation of the Act if it is correct, but that does not mean what the gentlemen from Automobile organization said is not the correct thing to advocate if it is done properly.

MR. MacDONALD: You missed the point. Their contention is -- and it is something we can verify later -- that the Board tolerates this kind of proposition which says it is not in violation of the Act.

THE CHAIRMAN: According to these gentlemen they do say it was in violation of the Act.

MR. MacDONALD: That is in Section 56.

THE CHAIRMAN: That is what we are dealing with.

MR. MacDONALD: No, we are talking about holding meetings, where you have a meeting of a captive audience and pay the workers overtime and use it as an occasion to malign unions generally. That cannot be conceivably anything but exactly what these people wanted when they were making their representation last week -- more channels of communication to get to the workers and tell them they should not join the union.

THE CHAIRMAN: It is an illegal practice, is it not, Mr. Metzler?

MR. METZLER: Mr. Chairman, I think the best information I can give to you is, the parties who have alleged that are entitled to take it to the Labour Relations Board and have them decide it. I do not think anybody could, on the basis of the present legislation, with one side of the picture, come to a conclusion. I think they have to get the parties before the Board and ask them to answer for their actions and let the Board decide as to whether or not they will grant leave to prosecute, or, in the case of a certification, it gives any weight to the submission of the union ---

MR. MacDONALD: With all respect, Mr. Metzler is missing the point. The point is, does the Board specifically say this is not a violation of the Act, we do not have to have leave to prosecute in any specific instance?

MR. METZLER: I do not think the Board goes out into the field and starts taking into account the people in connection with their operations, either from the standpoint of the trade union or of management.

MR. MacDONALD: Does the Board generally tolerate the holding of this kind of meeting?

MR. METZLER: I think that would be a question of fact, in a particular instance, as to what conclusion they could come to. It is their prerogative to decide. I do not think I can answer that Yes or No.

MR. YAREMKO: The statement that was made by the Automobile Chamber of Commerce was, to my recollection, this: they felt there was a field that was vague. They did not admit that channels of communication were in breach of the Act. They were not sure they were not in breach of the Act. Their position was that this Committee should recommend specifically what management could do, that we should spell out in the Act what is an unfair practice. Their submission was we should spell out what management could do so that

they could be sure that what they were doing was not an unfair practice, and that is what their submission was.

Now, they did submit two things. They suggested to the Committee that management should have the right to express their views in regard to union activity or in regard to specific unions, and also they use as an example that they should have the right to review any statements which they found as fact not to be correct. They wanted this Committee to include in the Act that they could do certain things, that they could review what they claimed to be misstatements of fact. They also wanted to have the right to express their views in respect to union activities or unions.

My point is this, having said all this so the air will be cleared, the proposition was stated to us in this way, that the management should have the right to express their views in regard to union activities, in regard to specific unions, provided that the management also made it clear to the employees, whether in a captive audience or otherwise -- in any other form of communication -- that ultimately the decision was a free one to be exercised by the employees.

Now, my question is this: From your experience have you heard whether there have been channels of communication used where the employer

does express his views and finally ends up by saying, "That is my point of view. I tell you that. The choice is yours, a free one. You will decide." Are those latter words tacked on to this discussion that takes place?

MR. RUSSELL: Sometimes they are and sometimes not, but in my view it makes no difference whatsoever. That is a formality. If that is permissible under the Act we might as well take Section 3 out. I say in my view we might as well take Section 3 out because it has no meaning when it says every employee has the right to join the union of his choice, because we are not here dealing with equals. The employee and the employer are not equals; the employer holds many things over the head, as possibilities, of the employee, and the employee understands that better than you do or better than I do, in handling the question of firing or losing his job. That is one very, very important comment. The whole question of promotion, demotion, type of work, and all kinds of ways which the employer has of exercising his will, and it is not sufficient in my view for the employer to get up and say, "Now, we have been a happy family"; that has been more or less typical and I will spare you the details. "You know me; I call you Jack and you call me Tom, and didn't I help you out last week when you were in difficulties? That is

the way we want to remain, .but if the union comes in I will insist on this, this and this." He tells them all inaccuracies and things that are bad, and he will say, "Look what happened here and here and here" without any real facts but a lot of so-called impressions, and he concludes by saying how well off they are and suggesting quite carefully, because these speeches are usually prepared by skilful lawyers who have experience in these matters, and he suggests that an increase is on the way for everyone provided we do not have a situation with those outside fellows, and then concluding by saying, "But the decision is yours to make." In other words, I dare you to.

THE CHAIRMAN: Could you answer me this, do you belong to the Congress of Labour?

MR. RUSSELL: No, sir.

THE CHAIRMAN: I notice an allegation in here in the document that has been filed:

"Remember that this vote is
"secret and that you can ex-
"press your own opinion without
"fear of reprisal from the union
"or company. This union, the
"UEW, is known to be communistic
"dominated. If you do not be-
"lieve this make it a point to find
"out."

That carries on with ways of finding out. You did not remark upon that part of this document.

MR. RUSSELL: These allegations are made from time to time, sir.

THE CHAIRMAN: Is your organization communist dominated?

MR. RUSSELL: Our organization is only dominated by its members.

THE CHAIRMAN: That is not the question.

MR. RUSSELL: No, it is not, sir.

MR. MYERS: That paper, whoever wrote it, points out that certain advantages have been enjoyed by the employees, which the union is saying they got for employees of some other places, but they have always been enjoyed by employees of Supreme ---

MR. RUSSELL: I do not follow you.

MR. MYERS: The part of the document which you filed showed certain advantages, a pension plan and some other things, the union shows as an example of what they could do for employees. The union says they have got pension plan and other advantages for employees in some other plant, and it points out that the employees of Supreme have already got those advantages without a union. What is wrong with that?

THE CHAIRMAN: Gentlemen, it is now one o'clock and you can answer that question at two

o'clock.

MR. C. S. JACKSON: In relation to the information you wanted, we were dealing with two questions. One is the Supreme power, which is the document you have in front of you. The other instance is where management held a meeting and talked about appliances coming in. It is separate. It is Canadian Westinghouse. That is the information you want from Canadian Westinghouse, unrelated to Supreme?

THE CHAIRMAN: That is right.

---Whereupon the Committee adjourned at 1.00 p.m.
to resume at 2.00 p.m.

(Page 1742 follows)

---On resuming at 2.00 o'clock.

Pages 1743 to 1781 "Mr. Jackson" is Mr. C.S. Jackson, President of the United Electrical, Radio and Machine Workers of America (UE)

THE CHAIRMAN: Gentlemen, it is now two o'clock. We have changed the location of the table to be occupied by those presenting the brief at the request of some members of the Committee who were unable to see all of the members who were presenting the brief, and in this way I think everybody will have an opportunity of seeing and hearing.

I think at the adjournment you were going to answer some question put to you by Mr. Myers.

MR. JACKSON: I did not take the question down. I was watching your gavel at the moment.

MR. HENDERSON: The question seemed to be ---

MR. MYERS: What I said: What is wrong with the employer telling employees they have already the things the union could get for them.

MR. HENDERSON: The reference was made to that document. It was concerning Reliance Electric, and the sections quoted from the agreement were quoted in such a manner that they were not complete and did not set out the true expression as set out in the agreement, and I would like to leave that with you, -- the effective agreement -- and you can see the omissions.

THE CHAIRMAN: Page 5, "Establishment

of bargaining rights".

MR. YAREMKO: Mr. Chairman, I wish to direct a question to Mr. Harris. What is wrong with the employer having the right, if he wishes to exercise it, to make statements to disprove what they allege to be misstatements of fact on the part of the union? That is alleged. Whether they take place or not, I do not know. But the proposition was put forward that the management have the right to correct any such a misstatement.

MR. JACKSON: Who is going to do the policing as to whether the employer, in answering what he contends is a misstatement of fact, is correct or is propoganda?

MR. YAREMKO: If the employer issued a statement which he issued in contradiction to what he thought was a misstatement of fact, and it turned out later that was a statement of fact, and not a misstatement, he was open to have committed an unfair practice.

MR. JACKSON: There is nothing in the Act that prevents the employer from doing just that.

MR. YAREMKO: There seems to be some doubts in their mind.

THE CHAIRMAN: There is nothing in the Act which says they cannot do it, but there is nothing in the Act which says they may do it.

MR. RUSSELL: You will not find in our brief a specific section dealing with the point you make. We do, however, make the point that the employer should not interfere in the organization of a trade union. Now, you come to the question of the thin edge of the wedge as to whether a fact is a fact, and we certainly do not wish to be unreasonable on these matters, but we believe if a union were making some claim that was a distortion of fact, the company would have the same rights as we are suggesting we should have to come before the Board rather than have them enter into the picture and attempt by so-called answering of statements or facts, and thereby getting involved in the rights of the workers to join a union. They could make their charges before the Board, and we would be perfectly satisfied.

THE CHAIRMAN: You don't want them to make statements to the employees?

MR. RUSSELL: That is right.

THE CHAIRMAN: Mr. Jackson says he doesn't mind whether they do or not.

MR. JACKSON: No, I said ---

THE CHAIRMAN: You also said you had no objection to it. I heard you saying that a few moments ago.

MR. JACKSON: I don't recall saying it.

THE CHAIRMAN: Do I take it now so there

will be no misunderstanding on it, you do object to employers correcting what they allege to be misstatements?

MR. JACKSON: I don't object to that. I object to any action by the employer which constitutes interference in the rights of the unions.

MR. MYERS: You have said a great deal about improper practices on the part of the employers, and I have been told that your union on an application for certification was bound to produce cards signed by employees, and cards were produced by your union which ultimately proved to be forgeries, and that was supposed to have happened in Peterborough, and I would like to know if it is so or not.

MR. JACKSON: It is not so. In Peterborough, the case I think you are referring to is Canadian General Electric, and the union was the International Union of Electrical Workers, which was found by the Board to have put in cards that were not correct cards and not evidence from the employees. In Fort Erie and Peterborough, in the case of the 49 witnesses ---

THE CHAIRMAN: It was not your union?

MR. JACKSON: No.

THE CHAIRMAN: Now we are on page 5, "Establishment of Bargaining Rights".

MR. METZLER: Before we leave the question, or leave what we have been discussing, the question arose as to consent to prosecute, and I want to point out to the members of the Committee at the last session of the Legislature there was an amendment made to Section 65 of the Labour Relations Act which reads as follows:

"Except in respect of a refusal
 "or failure to comply with an
 "order of the Minister made under
 "Section 58, no prosecution for
 "offence under this Act shall be
 "instituted except with the consent
 "in writing of the Board".

So that except on an order of the Minister a trade union or an aggrieved person wanting to prosecute on that does not have to have the consent of the Labour Relations Board.

THE CHAIRMAN: The point is here, Mr. Metzler, it is the feeling of the representations that have been made to us, and it has been indicated to me by some members of the Committee, that it should not be up to the Union to prosecute. It should be up to the Board to prosecute. I think that is one of the main submissions that is being made to us.

MR. METZLER: The question of consent was raised, and it has been modified to that extent.

THE CHAIRMAN: "Establishment of Bargaining Rights", sections 5, 6, 7, 8 and 9 of the Act. It continues on to page 14.

MR. WREN: On page 5, Mr. Chairman, the statement is made here:

"Labour relations are such in
"the province today that practically
"no employer will negotiate with a
"union unless and until it has
"received certification."

Is it the experience of your union that they have not negotiated any voluntary agreements?

MR. JACKSON: Not in the past few years.

MR. HARRIS: Can't recall any in the past few years.

MR. JACKSON: At one time there was some slight indication of willingness on the part of the employer. It has become pretty well the rule today that the employer, even when approached by us when we are prepared to improve our membership by any other means, would not be prepared to sit down with us.

MR. WREN: Is that confined wholly to the Union of Electrical Workers?

MR. JACKSON: No.

THE CHAIRMAN: There was evidence to the contrary by one of the other organizations.

There was a great number voluntarily --

MR. MACAULAY: In fact more.

MR. JACKSON: In terms of that particular union or in all cases for all unions?

THE CHAIRMAN: In cases of all unions that they represent.

MR. JACKSON: I would think the record of the union movement would substantiate the position we take that there are very few.

MR. MACAULAY: Could it be that the view which has been expressed in this circular that you are Communist dominated would have something to do with that?

MR. JACKSON: We are not disturbed at all by the fact that there is any relationship between the allegations and your conclusions.

MR. MACAULAY: Not my conclusions.

MR. RUSSELL: I do not think that question has anything to do with it.

MR. MACAULAY: My question was might it be in connection with the Union of Electrical Workers the fact that you say that no employer will negotiate with a union unless and until it would receive certification is due to the fact that there is an allegation, whether it is true or false that you are communist dominated? Might that be a reason?

MR. RUSSELL: I think, Mr. Chairman,

if that sentence had read "negotiate with a bona fide union" with whatever it is you are quoting.

MR. WREN: The Ontario Federation of Labour delegates suggest that they negotiate a good many voluntary agreements.

MR. JACKSON: I suggest that the record would show of all contracts negotiated in this province, the record would show by far the vast majority, with very, very few exceptions there are no negotiations short of certification.

THE CHAIRMAN: I would like to see the record on that.

MR. MACAULAY: We were told this, and we were asking for information, we were told this by various persons who have appeared before this Board, that there are more agreements negotiated with bona fide recognized unions without certification than with certification.

MR. JACKSON: Would that be in a particular industry?

MR. MACAULAY: No, sir, throughout Ontario in the Labour movement.

MR. WREN: As a matter of fact one of the suggestions to the Committee was that perhaps the Labour Relations Board should consider some measure or some method of certification to show that they had negotiated voluntary agreements because they claim

some unions use a propoganda campaign by the fact they were not really certified and it was suggested they were not recognizable.

MR. RUSSELL: With respect, Mr. Wren, I think I was here the day that came up, and it was not the Ontario Federation of Labour that raised it; it was another group. I recall that.

MR. WREN: I did not say the Ontario Federation of Labour made that point. I said the Ontario Federation of Labour stated that they had negotiated many voluntary agreements.

MR. RUSSELL: I do recall the point you are making, and it was made by another group.

MR. MACAULAY: But Mr. Wren is pointing out that as one of the unions pointed out, that was the difficulty with them, that it happened so often and so much that there was no certification, that they wanted certification upon having entered into an agreement, and many of the unions who appeared before us have pointed out that is not necessary because they have all the benefits of the Act once they have entered into an agreement, and that there are more agreements entered into with bona fide unions without certification than with certification.

MR. HARRIS: Mr. Chairman, we feel that we are pretty close to Labour Relations in this province and have access to the facts which

cover other unions as well, and it would be surprising to us if that was the case. Now, by that we do not mean that it does not occur, it does not happen.

MR. WREN: You say practically no employer will negotiate with a union.

MR. HARRIS: We feel that state-ment covers not only this union but generally industrial unions. It may not apply with equal force to building trades that has other problems, but it is our firm conviction that by and large as far as bona fide -- what we call bona fide unions -- are concerned, that this statement applies.

THE CHAIRMAN: In any event it applies to the Union of Electrical Workers.

MR. JACKSON: And also the packing industry, rubber industry, automobile industry, steel industry.

THE CHAIRMAN: Page 5? Page 6?

MR. MACAULAY: The second paragraph on that page, if your submissions were to carry the support of the Legislature -- If one have not made up my mind on the subject and I know of no other member of the Board or Committee who has -- it would preclude any person, regardless of interference, changing their mind about having signed a card and paid a dollar.

MR. RUSSELL: Oh, sure. That is very



simple. They have an opportunity to vote contrary to the way ---

MR. MACAULAY: You want automatic certification.

THE CHAIRMAN: Without a vote.

MR. MACAULAY: If you go there with more than 55 per cent. Is that right? And if somebody in the meantime has changed their mind and they sign a petition even without interference you maintain there should have been an automatic certification.

MR. RUSSELL: Yes.

MR. MACAULAY: That precludes a man from honestly changing his mind, doesn't it?

MR. RUSSELL: On the basis of certain requisites which was set out by the Act and the union having to get a dollar and the various things that have been outlined, then so far as we are concerned that settles it. If, on the other hand, there is less than that percentage and a vote is ordered, then of course a person could vote in a different manner, but where there is no certification we suggest -- contained in our brief the suggestion is that there will be practically no change of mind unless there is some interference. That is the suggestion.

MR. MACAULAY: Yes. You are saying that a man will not change his mind, having once

paid the dollar and signed your card; he will not change his mind unless he has been interfered with, and the mere fact he has changed his mind is prima facie evidence he has been interfered with.

MR. RUSSELL: It would be so insignificant. I don't say no one would change their mind, but it would be so insignificant.

MR. MYERS: It has been suggested to me that the cards are signed in the first place with pressure: "There are only three fellows have signed; you sign here".

MR. MORNINGSTAR: I wonder where this originated from, this dollar fee. How did this come to start?

MR. JACKSON: Instituted by the Board as a requirement. Originally, as I said earlier this morning, there was what was called an authorization card up until 1945; signature on a card, and from there on the Board asked for more evidence, and the amount of your initiation fee. Then it was amended again, and made it one dollar.

MR. MACAULAY: That was under P.C.1003. That was not under the Ontario Labour Act. That was under an adaptation of P.C.1003 before we had our own Act.

MR. JACKSON: I am not positive on the legal aspect of it.

MR. RUSSELL: We are not complaining about the one dollar fee.

MR. MacDONALD: I must confess my view on these petitions was altered by the testimony of the U.A.W., and that is it is very, very easy for a man who has signed a card that is put in the spot where you sign the petition or you endanger your livelihood. He has no real intention of signing it at all.

MR. MYERS: Yes, that could happen.

MR. MacDONALD: I think that is in effect what this group are saying.

THE CHAIRMAN: Anything else on page 6, gentlemen? Page 7.

MR. MACAULAY: There you say in the third paragraph your submission is that the only types of intervention should be where there is already a bona fide union holding a collective agreement or where there is another conflicting application. Thus that precludes, obviously, a man having changed his mind. Doesn't it?

MR. JACKSON: It is our opinion it would preclude say within the framework of 3 to 4 per cent., but beyond that it would not be an influential factor.

MR. MacDONALD: I think this is consistent with whatever the premise of the Act

is; namely, it is desirable to have a union but you don't have a choice between having a union and no union at all.

There is one point on this page, and this is the first time we have heard it apart from representations from one Church council which specifically raised the question of employees whose religious convictions preclude them from participation. You say here: "It frequently happens that there are numerous employees ..." Where is this experienced?

MR. JACKSON: In a large corporation like the Canadian Westinghouse plant in Hamilton there are still a number who for religious reasons will not pay dues to the union but will pay the amount of the dues to some charitable organization through unions as a means of saying they are not against the other workers but it is against their principles.

MR. MacDONALD: Have you been approached with regard to a written or gentleman's agreement on accepting this kind of thing?

MR. JACKSON: Yes, we have such an agreement in effect where money is turned over to various charitable organizations.

MR. MYERS: I have here before me an agreement copy of Reliance Electric, and I see there is a specific provision that a man need not

belong to the union so long as he pays his dues.

Is that standard form?

MR. JACKSON: That depends on what you negotiate with; With what particular company.

MR. MYERS: How many have that clause?

MR. HARRIS: It is mainly a standard clause; does not necessarily bestow the employee with membership in the union. It is an agreed-on form of check-off.

Answering Mr. MacDonald, maybe the word "numerous" would convey the wrong impression. It may convey the impression of large numbers. When we speak about "numerous" we mean that number of employees that could well affect the outcome of the vote. You see?

THE CHAIRMAN: The main point you are making here of course is in the determination of the result all that should be considered is the votes that are cast and not those who are eligible to vote.

MR. HARRIS: Yes, sir.

THE CHAIRMAN: Page 8, gentlemen.

MR. MACAULAY: You point out in paragraph 2 on page 8 there appears to be a conflict in those two sections, and it appears to me there is one also. You say the Board shall certify and the Board may direct. That vote is rather a redundant thing.

MR. RUSSELL: I never understood it, and

I have been appearing before the Board for many years.

THE CHAIRMAN: Would you ask Professor Finkelman to come in, please, if he is outside.

MR. MYERS: Before we leave this religious part of it, you are perfectly willing to put that provision in your agreement if there seems to be any call for it?

MR. HARRIS: We have an arrangement, and Mr. MacDonald asked the question also. We don't take the attitude that an employee should be -- should lose his employment for example if he has genuine religious convictions.

MR. MYERS: I think that is only proper.

MR. HARRIS: And therefore, we have either a gentleman's agreement -- mainly a gentleman's agreement that special consideration will be given to the employee who holds genuine religious beliefs.

MR. MacDONALD: What is your reaction to the proposal where a gentleman's agreement cannot be voluntarily secured; should there be legislation to compel them?

MR. JACKSON: Covering what subject?

MR. MacDONALD: On this particular subject.

MR. HARRIS: We think legislation would

be extremely dangerous, Mr. MacDonald, because while we have no objection to a person with genuine religious convictions, we would certainly be very wary about a condition where persons not necessarily with genuine religious convictions could use them.

MR. MACAULAY: How do you distinguish it now?

MR. HARRIS: It is generally known.

MR. MACAULAY: Would it be fairly well known if it was legislation as opposed to being a gentleman's agreement?

MR. HARRIS: I don't know if legislation could establish beforehand what is a genuine religious conviction.

MR. HENDERSON: In Reliance we permit a religious worker not to be a member by maintaining union dues, but on the other hand, we have the other form of religion that discourages working on Saturdays, and as a result, management confronts us with another problem there. We have to work them out as they come up, and if you were to adopt a procedure with respect to dues check-off, you would also have to provide for the working week, again with respect to religious convictions. We have to work them out as they come up.

MR. MacDONALD: Quite apart from any legislation that may be brought in, at least those

who hold religious convictions and do not want to participate in a union, should be taken off the eligible list just like people at home.

MR. HENDERSON: I think they should be excluded where they refuse to cast a ballot.

THE CHAIRMAN: Professor Finkelman is not here?

MR. METZLER: There was a discussion on one or two cases, and the question came up that he could have answered it, but he is quite ill and he has gone home to bed. There is a meeting I think at two-thirty and he has to be back.

THE CHAIRMAN: He will be available for us?

MR. METZLER: Yes, and I would like to say this on behalf of Professor Finkelman, if it is the desire of the Committee they will present themselves and give information in respect of matters that were the subject of discussion this morning ---

THE CHAIRMAN: Yes, thank you. Page 8, anything further, gentlemen? Page 9. Page 10.

MR. MACAULAY: Paragraph 2 on page 10, the last sentence says:

"Due to the employer interference
"the Board should certify the union
"as the bargaining agent without a
"vote".

Now, this problem occurs to me, and again I have no preconceived notions on it, but I am trying to think in advance of the problem. Let us say you go into a factory and you start to organize, and there is some interference, and interference that you call "interference by an employer". That would automatically result in your certification, even though there might be a great number of people opposed, by the mere fact that the employer has interfered.'

MR. RUSSELL: One of our purposes in putting that in: It is to be used as a deterrent to all employers who will know in advance that if they interfere, and if the union can prove such interference, then the Board has the power, which they do not have now, to automatically certify it.

It frequently happens, sir, that interference takes place long before you have achieved even a 45 per cent. position to get a vote.

The Joice and Smith case which I gave you as an example this morning, took place right at the very beginning, and there are other examples where you have a very small percentage. In other words, you can't get off the ground. That is designed to deter employers from using their

influence.

MR. MACAULAY: I understand your purpose, and you have explained it very admirably. The only point I make is the one I have made; namely, the moment interference arises it results in an automatic certification for you, and you may not even get down 40 per cent. of the people to approve.

MR. RUSSELL: If the employers don't interfere then that matter won't come up. We would have to prove employer interference.

MR. MACAULAY: But you wouldn't even have 55 per cent.; maybe 55 per cent. wouldn't want you even if the employer had not interfered.

MR. JACKSON: The Board has already taken care of that in the "X" factor.

MR. MACAULAY: All I know is you say there is automatic certification as soon as interference has been established.

MR. RUSSELL: In setting that out the way we did, it is solely designed to let the employees decide whether they want a union or what union on its merits without interference from the employer, and this way it would curb the employer's practice of interfering, influencing, et cetera.

MR. MACAULAY: And you penalize those who are opposed simply because of interference of the employer.

MR. RUSSELL: I think in life you will

find that if an Act contained such provision as we recommend, there would be no longer any employer interference.

MR. MACAULAY: Mr. Harris this morning stated he didn't like to talk about hypothetical situations proposed by my friend from Galt, and therefore I think your submission in that regard is hypothetical too, isn't it?

MR. JACKSON: The presupposition is, Mr. Macaulay, that the workers want organization, and I think it is fair to say campaigns have been carried out and almost inevitably a majority support for the organization. So that we feel that is a sound presupposition, and it is based on that presupposition.

MR. MYERS: It is in the discretion of the Board.

MR. JACKSON: No, it would be mandatory in this particular instance.

THE CHAIRMAN: That is what you are advocating.

MR. RUSSELL: In reply to Mr. Macaulay, the problem here is this, that where you commence organization you get less than 45 per cent. of the people organized and there is the type of interference that stops it, you have no way of bringing it out in the open. You can't apply for certification. You can't do anything. Your hands are

completely tied. When you get above 45 per cent. it is a different thing. That is the only reason it is hypothetical. You have the 50 per cent. and you are stymied.

MR. MACAULAY: Perhaps it is better if you were stopped before you got 45 to have some mechanism by which you could come before the Board with reference to the interference and which you could go on. But that is a different matter to requiring an automatic certification.

Say you go into a plant with 4 men or 400 men, and by the time you get around to 4 of the men the employer does something which constitutes interference, you automatically sweep in the other 396, and maybe none of them even know of the interference of the employer. You talk so much about the lawyers and their wiliness, and I am a lawyer, and I am trying to think of all these problems.

THE CHAIRMAN: We are a most maligned profession.

MR. MACAULAY: We certainly are.

MR. JACKSON: We would certainly not look unfavourably on a percentage figure being in there. For instance, I understand in the United States for application purposes, only 25 per cent. signed employees is required. If some such figure as that which shows there is a

genuine movement on the part of the workers which has been interfered with, and then we would have an opportunity of presenting the facts of interference to the Board, and the Board could certify.

MR. MACAULAY: You might amend what you have said subject to that observation.

MR. JACKSON: I would not be opposed to amending to set a figure between 25 and 30.

MR. YAREMKO: We would be dealing with subsection 5 of Section 7, would we not?

"If on an examination under
"subsection 1 the Board is satisfied
"that more than 50 per cent. of the
"employees in the bargaining unit
"are members of the trade union ..."

The problem resolves itself about those words "more than 50 per cent.", is that correct?

MR. RUSSELL: Subsection 5 were you reading?

MR. YAREMKO: Subsection 5 of 7.

MR. JACKSON: 5 you are referring to in this particular instance?

MR. RUSSELL: In subsection 5 you have to have better than 50 per cent. to vote the "X" factor.

MR. MacDONALD: Your proposal would be to put a third category. Your proposal would be to have a 25 to 45 category where you

can go before the Board and prove interference on the part of management and some action would be taken?

MR. RUSSELL: Yes.

THE CHAIRMAN: Page 11.

MR. MacDONALD: This proposal for run-off strikes me as being manifestly fair, and I think it is something that we as a committee might give some thought to.

While you have the proposition of two or three bona fide unions seeking certification in the States, it is not common in Canada. As a matter of fact I noticed a news story some place, in London, where there were three and it was the first time it happened. If you ever got to three it would be impossible to get the majority of those into voting. It is conceivable it would be impossible. So it seems to me our Act should anticipate this kind of thing, even in the instance of two bona fide unions.

THE CHAIRMAN: Has it ever occurred here?

MR. RUSSELL: Yes, sir, currently, as Mr. MacDonald says in London there were three unions succeeded in getting more than 45 per cent. You can see from that there were actually -- you can place it this way: There were actually 150 per cent. of the employees signed up. Obviously some

signing with two and then three.

There was a vote held and no union received the requisite 50 per cent. plus one vote, and the matter is now before the Board. While the Act does not bar it, it does not provide for it specifically, and our union is one of the three. Our proposal is the union that got the least votes should be dropped, and there should be a run-off between the two top unions.

MR. MacDONALD: Could I pursue this? Is it not sometimes necessary to carry a run-off even beyond -- having two in the field. Suppose a third of the people did not vote, and it is quite possible one or the other of even two unions let alone three unions would not get the majority of the eligible voters.

MR. RUSSELL: You are quite right. If you take a hypothetical case, and you take two unions and a plant of 100 people, and everybody voted, and they voted 50 for one and 50 for the other neither union would be certified.

MR. MACAULAY: Also while people may want one, if they can't get one of them, they might not want any. That comes back to your proposition it is presumed they want somebody rather than nobody.

MR. JACKSON: And they don't permit "no union" on the ballot.

MR. MACAULAY: Would you approve of that?

MR. JACKSON: Not particularly.

MR. MORNINGSTAR: What is your view, Mr. Metzler?

MR. METZLER: I have no view. I think if you direct your question to the chairman of the Labour Relations Board -- they are running into these experiences every day of the week, and it does not fall in my purview and I would not care to speak.

MR. HARRIS: I don't think anybody is going to make it a very contentious question. The simple facts are that this is, all in all, the first experience in Canada where such a vote has taken place with these results.

MR. MacDONALD: Once again I think this is something we should decide and not Mr. Finkelman because Mr. Finkelman can't decide on this as a matter of policy.

THE CHAIRMAN: I think we should hear from him some of the votes that have been taken. Shall we proceed, gentlemen, to page 11? Page 12?

MR. MACAULAY: What do you say about -- you are talking here about company unions and hiring expensive lawyers and so forth, and wanting some production of some kind, a statement. Is that so? Up at the top of page 12. You want some kind of

production from those who were respondents to establish that the money they were using to fight the application --

MR. RUSSELL: Yes.

MR. MACAULAY: Do you want production of some kind of statement or financial statement or something from the respondents, or what was it you had in mind?

MR. RUSSELL: We have numerous examples. Let me give you one or two.

MR. MACAULAY: I know how it happens, and I know exactly what you are saying, and you are the tenth or twelfth union that has been here and they have all said the same thing. I want to know what your mechanics is for establishing whether they have the money to carry on as respondent.

MR. RUSSELL: The petition comes before the Board, and the Board makes certain enquiries about the petition. They ask for the persons who originated the petition to come before the Board and while they do not allow us to examine those people, they examine them, and they ask them where did you obtain the signatures, when and how and so on.

Now, as a bare, bare minimum, there should be some examination into where did the funds come from to produce a lawyer.

MR. MACAULAY: They do not ask that?

MR. RUSSELL: No.

MR. MACAULAY: We were told yesterday you are not allowed to cross-examine to elicit that information at all.

MR. RUSSELL: That is correct.

THE CHAIRMAN: Anything further on page 12, gentlemen? Page 13.

MR. MACAULAY: Is Mr. Albert D. Thomas of Utah a Democrat or Republican?

MR. HARRIS: I think you have us there. I don't know.

MR. JACKSON: I think it is also contained in the preamble in the Wagner Act.

THE CHAIRMAN: Page 14.

MR. WREN: Mr. Chairman, as a matter of interest, I think your observations might be interesting and valuable. In the second paragraph on page 14 you say "some workers are actually saddled with company unions ..."

Can you give the Committee some example of where there are let us say bona fide company unions where the employees are suffering as a result of that union?

MR. RUSSELL: Yes, sir. In the case of ---

MR. HENDERSON: In Reliance we were saddled with a company union for 10 years.

THE CHAIRMAN: You are not now?

MR. HENDERSON: No.

MR. RUSSELL: We have in the electrical field a contract with the union. They also own Packard Electric. And at the request of the workers we went out to organize. They had no union in Packard Electric a matter of a year ago, and after a substantial number of employees joined our union and it became known, suddenly a notice went up on the Bulletin Board. A meeting was called that night. A lawyer was at that meeting. Many, many of the workers were there, and they set up a company union that night, and they never applied for certification. They have a contract, and their rates today --

MR. WREN: That, in effect, sir, is just another instance where opposition developed to an application. What I am getting at, where there is a company union say that has been in existence for five years or more, and is still in existence, that is the kind of example I want.

MR. RUSSELL: One of the largest electrical manufacturers in Canada, in North America, is the firm of Northern Electric Company, and their rates as compared to their competitors in Canadian General Electric and Westinghouse are very substantially lower. They have been saddled with a company union now in Belleville and elsewhere not in this province and those workers just can't

get out from under.

MR. WREN: When you say "very substantially lower", 10 or 5 cents?

MR. RUSSELL: Last time we made a comparison which was a couple years ago, they were closer to 25 and more. That is a conservative statement.

MR. MACAULAY: Can you get us the rates of the two?

MR. RUSSELL: It is not easy for us to get the rates for Northern Electric, but we can -- our research department will do what is possible in the circumstances.

MR. JACKSON: I think you will find the greatest difference, in addition to the difference in rate, the difference in the various other conditions known as fringe conditions because as a rule, a corporation the size of Northern Electric will in terms of its published rates, not necessarily its earned rates, will move them up as negotiations are completed in competitor firms in the same area. But when it comes to what the worker actually receives in take-home pay, what he receives in the form of fringe benefits, there is where you find a substantial difference.

MR. MACAULAY: When was the contract negotiated, or when was your union certified at Reliance?

MR. HENDERSON: It was certified in December of 1950, and we bargained our first contract April of 1951. From '42 through to '51 we had a company union.

MR. MACAULAY: How long have you been a member of this union, Mr. Henderson?

MR. HENDERSON: Since its inception in Reliance.

MR. MACAULAY: Pardon?

MR. HENDERSON: Since it came into Reliance. This particular union?

MR. MACAULAY: Yes. You did not belong to it before it came into Reliance?

MR. HENDERSON: No, from the day it was certified.

THE CHAIRMAN: Page 14. "Negotiation of Collective Agreements". This extends to the bottom of page 18.

MR. MacDONALD: You acknowledge one sentence was too strong. Are you in effect saying it is not uncommon to wait weeks and sometimes even months.

MR. RUSSELL: I thought out of fairness to the department I should vary that statement a trifle. After being written, we made a closer check than had been made, although with regard to the first section we have 26 cases where we waited 30 days or more before the first meeting

took place. These are out of 60 cases.

In another instance, we had 33 cases where 14 days or more elapsed before appointment of the officer, conciliation officer, and the first meeting took place. That is with regard to the first part of the paragraph.

With regard to the second part of the paragraph starting "under our present arrangement this meeting very infrequently brings about a final settlement", we wanted to vary that slightly and point out in January, 1955 to September, 1957, that is 60 cases, 28 went to a Board, 24 were settled with a conciliation officer, so that would make our language appear a bit strong.

From January 1st, 1955, to the end of December, 1955, out of a total of 29 cases, 16 went to a Board and 10 were settled with a conciliator.

MR. MACAULAY: So in short, out of 60, 52 were never settled by sitting down around the table, which is what you said.

You said in here somewhere, and I do not recall exactly where it was, that the majority or a great number of these things were settled by the parties sitting down around the table, and yet it appears to me if there were 60 there were only 8 of them settled that way; 24 with the conciliation officer and 28 after Boards were never settled, so there were

8 out of 60.

MR. JACKSON: Any situation that is stopped short of a strike is settled around the table.

MR. MACAULAY: The inference was in spite of conciliation procedure and Boards, that was the inference I took that you took when you said "settled around the table", unless you settled them around stools.

MR. RUSSELL: I don't follow you.

MR. MACAULAY: Let me start again. Somewhere in this presentation you say that in your opinion most of these disputes are settled by direct negotiations around the table. As I understood.

A UNION REPRESENTATIVE: I think you are quoting Mr. Daly's ---

MR. JACKSON: We agreed with Mr. Daly they should be settled around the table.

MISS WILSON: Actually we have not made a comparison here. We have not broken down the total of all negotiations. I think if we did we perhaps would find that a third or half or something of all the negotiations were settled directly.

MR. MACAULAY: Yes, I see.

MISS WILSON: Directly between the parties. But of the ones where we applied for a conciliator, such and such happened.

MR. MACAULAY: I see. Thank you.

MR. METZLER: Before you leave this point, I might assist the Committee by submitting some information. In 1956-57 there were a total of 16 U.E. cases disposed of by the branch involving some 8,700 workers. Of these, 12 were settled at the officer stage, one of which was settled by the officers, prior to meeting with the officers. The application was made, but it was settled by a further meeting before they were called into conciliation.

Four cases were referred to a conciliation Board but two of those cases were subsequently settled prior to the operation of the conciliation board, and two therefore are within the operation of the board. Out of 16 cases in 1956-57.

MISS WILSON: When I was looking over these figures I found some strange results. It depends on the period you take. In some periods more cases seem to go through to Board than others.

THE CHAIRMAN: You don't disagree with Mr. Metzler?

MISS WILSON: No, I think it is probably quite true for the early part of this year.

MR. METZLER: We have received it on a fiscal year basis, and this was for the complete fiscal year 1956-57. There were 16 U.E. cases.

12 settled; 2 finally went up before conciliation. I have not the figures for the 1955-56 year, but I am sure we can analyze them and produce them before the Committee.

MR. JACKSON: I wonder if Mr. Metzler would give us the figures for this particular year. Is it the calendar year?

MR. METZLER: Fiscal year.

THE CHAIRMAN: April 1st to March 31st. Anything else on page 15? Page 16.

MR. MacDONALD: Mr. Chairman, I wonder if the witnesses would spell out exactly what they mean when they speak of "streamlined single step form of conciliation". In the top paragraph, 5th line.

THE CHAIRMAN: Page 16?

MR. MacDONALD: Page 16.

MR. JACKSON: Single step form --

MR. RUSSELL: I thought we had spelled it out, Mr. MacDonald. But what we had in mind; namely, we set out two methods and we are not married to any particular method. If the parties who are in strike negotiations cannot resolve their differences, then there should be a step -- we say that step could be by having a panel of people, conciliators, who after consultation with labour, et cetera, the government has worked out this panel, one of these conciliators come in and meet

with the parties up to the time of the termination of the agreement. If they work out an agreement, fine. If not, then the parties are free to go their respective ways.

The other possibility, if that is not practical, is the conciliation officers that are used now. We would not object to that.

MR. MacDONALD: Let me pursue one point. Up to the time of the termination of the agreement. Would that mean the conciliation period would be limited to a 60-day period the last two months of the year?

MR. RUSSELL: That is right.

MR. MacDONALD: In other words, what you are asking for is a limitation on the overall period of 60 days?

MR. RUSSELL: That is right, except by mutual consent. Obviously if the parties agree to continue on, then that would be fine, but if that was not so, they are not bound ---

MR. YAREMKO: Those figures are very interesting that Mr. Metzler gave, because on page 15, at the end of the second paragraph you state:

"...there is obviously

"a sharp difference between

"the parties and the company

"most frequently elects to

"wait to have a Board of Conciliation

"deal with the matter."

Now, on the basis of Mr. Metzler's 16 cases of conciliation where eventually only two of the 16 would be dealt with by the Board in that year, it does not seem to jibe with that part of your brief.

On the other hand, the other interesting thing is that actually this 1956 to 1957 is an example of a streamlined single step because the conciliation officers have been able to resolve 14; almost all the 16. You have been operating under a streamlined single step.

MR. JACKSON: May we point out that period, March 31, 1957, happens to exclude the main contracts that these unions had with the largest corporations because they were contracts which in the early 1956 period were signed for two years or longer, and therefore this is not a representative period in terms of the number of cases we have or the incidence of those that have to go through various stages of conciliation. We have given our figures for the calendar year.

MISS WILSON: I have figures here starting back in the beginning of January, 1955, and chronologically from there on, showing what happened to each case, and in the early part, up to about August, 1955, practically everything seemed to go to a Board. Quite a few. Proportionately,

a large number went to the Board.

Then for the next year or so, very few did; most of them were settled with the conciliator. And then recently a lot of them have been going to Boards again.

There is a tendency on our part, until we actually set down all the figures, to remember the cases that we have trouble with, and the long drawn-out ones, and perhaps forget the ones that are settled rather quickly.

THE CHAIRMAN: You are going to let us have that additional information for the previous year?

MR. JACKSON: I would like to draw the attention of the Committee to the fact that there are cycles which I do not think are necessarily measurable in this regard.

I think if you examine the history of collective bargaining in 1949-50, for instance, you find almost without exception every major bargaining of every major union in Canada lost a year of bargaining, and that 1949 negotiations almost without exception were not wound up until the middle or late on in 1950. We find that from time to time.

We have not made a study over the years, of recent date, but I would think that a study that

went back half a dozen years would reveal that there are periods when there seems to be -- and this is speculation -- seems to be an employer resistance on a fairly broad front which results in a whole flock of cases going through a long dragged-out process of conciliation, and we feel that the Act provides encouragement for that type of unified approach in terms of employers and in terms of collective bargaining.

I think if you study the dates, annual dates of any one of the major contracts, let us say automobile or in steel, in packing house, in rubber, in electrical, you would find that those dates have changed so many times they are far removed from what were the original dates on which the first contract was signed.

Sometimes you have a 12-month period. Usually a 16-month or 18-month period for the life of a contract before there is a renewal of that contract, which raises the whole question of retroactivity and all this is part of the background of our proposal for streamlining our procedure.

MR. MacDONALD: How successful in your union have you been in getting retroactivity?

MR. JACKSON: Fairly successful for most of the large corporations. Not 100 per cent.

MR. RUSSELL: With respect to the apparent contradiction in the example given by Mr. Yaremko when he was quoting Mr. Metzler, I think you will appreciate, sir, that as Mr. Jackson said our major contracts had not been negotiated 'not long prior to the beginning of the fiscal year, speaking what could loosely be called a sort of island, and the smaller ones tending to fall into line more or less. In that instance did, I believe.

THE CHAIRMAN: Page 17, gentlemen.

MR. METZLER:

<u>Name of Company</u>	<u>Location</u>	<u>No. of Employees</u>
Can.Pittsburgh Ind.Ltd	Peterborough	12
Aerovox Canada Ltd	Hamilton	425
W. C. Wood Co. Ltd	Guelph	170
Elec.Storage Battery Co.	Toronto	95
Elec.Storage Battery Co.	Scarborough	70
El-Met Parts Limited	Dundas	25
Martin Dairy Ltd	Welland	21
J.F.Cunningham & Son Ltd	St.Catharines	40
Trane Co.of Canada Ltd	Toronto	300
Cdn.General Elec.Co.	Toronto, Peter- boro, Guelph	5200
Canada Wire & Cable Co.Ltd	Toronto	1300
United Carr Fastener Co.	Hamilton	150

Those are included in this group with Canadian General Electric at Peterborough.

THE CHAIRMAN: Thank you, Mr. Metzler.

Page 17, gentlemen.

MR. WREN: Mr. Chairman, gentlemen, page 17 of your brief you propose a conciliation procedure using efficient conciliation officers and eliminating conciliation boards. Now without discussing the merits or demerits of your proposal what disturbs me here is the availability of personnel. I say that because I would like your opinion on one thing. Do you not feel that the mortality in popularity of conciliation officers might be very high? Now I say that for this reason, that the conciliation officer would be known, especially one man in favour of management, you chaps wouldn't like to have him around and if he were favouring unions over management, management wouldn't want him around very long. I would say they would be coming and going in quite large numbers. Where are you going to get personnel?

MR. HARRIS: Those are actually the hazards of the profession. They have to stand between labour and management in attempting to bring about a settlement.

MR. MacDONALD: I think we had heard earlier about conciliation officers becoming sort of permanent officials.

MR. MACAULAY: There is only one left.

MR. MacDONALD: They are permanent officials. Mortality rate in the existing

officers is low.

MR. METZLER: Reasonably low. We have had two or three in the last four or five years. One man died.

MR. MACAULAY: We didn't mean that kind of mortality.

MR. METZLER: I think in following up on Mr. Wren's point there, that has to do with the proposition of the unions to the effect that the conciliation officer should bring in recommendations as a basis of settlement of disputes, I think if you got yourself into that position, mortality would be complete because they would then lose their proper function which is to stand between management and labour. There would be a person entrusted with the confidence of both sides in order to assist them in reaching a collective agreement. That is their function.

MR. WREN: That is true. Now it is suggested the same kind of people might handle arbitration in the same manner. What I am getting at is without assigning the merits or demerits, let us say we adopt the suggestion in its entirety, what would we do about personnel? For example, we have a limited staff of conciliation officers, now the federal government have suggested they are not going to permit judges to be used as conciliation chairmen, so that is another field that seems to

be out. Now where are we going to get the people to do it?

MR. RUSSELL: In the brief presented to your Committee by the Ontario Federation of Labour, they outline a rather elaborate procedure in the form of numerous suggestions of university training, etc., and we subscribe to the propositions that are outlined there, the government taking a long-range view of this and trying to train people as outlined.

MR. WREN: I suggest to you that once these people start handing in reports and recommendations that are considered to be favourable to one side or the other they are not going to last too long on that particular work.

MR. RUSSELL: It is not a firm proposition. We say they could. It is not a firm proposition that they even have to make recommendations.

MR. MACAULAY: Then they could lose a long time. They have spent sixty days of your time trying to bring the parties together. If they fail then after that you would have the right to strike?

MR. RUSSELL: That is right.

MR. MACAULAY: In that way they would not have to bring down a report one way or another?

MR. RUSSELL: I think that would be satisfactory.

MR. MACAULAY: That is your proposal or one of them?

MR. RUSSELL: Yes.

MR. MACAULAY: It has been suggested before, there is a strong demand that the report of the conciliation officer ought to be read to the membership of the union, then a vote taken. Is that the procedure?

MR. RUSSELL: That is the practice in this union.

MR. WREN: Do you disclose everything and then take a perfectly free vote?

MR. RUSSELL: Yes.

MR. C. S. JACKSON: I wonder if I might say this. Mr. Metzler in commenting on the sixteen cases mentioned the General Electric. I think the history of negotiations of the General Electric Company proves our point quite conclusively as to the delay aspect. Canadian General Electric Company in almost twenty years of negotiating with this union have never yet concluded a contract around the table. It is a matter of form in the General Electric Company to acquire the services of Mr. Louis Fine before they will reach a settlement. They have never attempted to make a settlement around the table with the union. They have always wanted conciliation. The result is I would say four, five months before we get Mr.

Fine, and then something like thirty days of using Mr. Fine's time in trying to get a settlement.

MR. MACAULAY: Does he usually get one?

MR. JACKSON: We have always had one.

THE CHAIRMAN: Is it usually made retro-active?

MR. JACKSON: To some degree, not one hundred per cent always. Actually you usually get delays. That is your problem.

THE CHAIRMAN: Page 18, gentlemen.

MR. MacDONALD: On page 18 I have a question which I hope is a fair question in your estimation.

THE CHAIRMAN: Thank you.

MR. MacDONALD: Section 40, subsection (3), of our Act permits an open period for certification of another union in the last two months of the year and the last two months of the contract, if it runs for eighteen or twenty months, something like that. What is the reason for conciliation being excluded at that period?

MR. METZLER: Well, if you are asking me the first question ---

MR. MacDONALD: Yes, I am asking you.

MR. METZLER: There is a clause in the legislation that there will be no strike or lock-out during the lifetime of a collective agreement and how can you call them in there before that?

You are going to permit a strike or lock-out.

MR. MacDONALD: Conciliation might remedy this and there would be no need for a strike or lock-out.

MR. METZLER: How can you? I don't follow you on that, during the lifetime of an agreement --- ?

MR. MacDONALD: It now has to go to arbitration.

MR. METZLER: Not necessarily, I think the point that is raised by the union is this, that they may insert in their contracts what they call an open-end clause, a wage clause, where they may have the privilege of bringing up matters that should be reviewed at a certain period, possibly the end of six months or a year. However, there is no machinery, and this is the effect, that if they had the right to open a contract for the purpose of discussing wages, there is no machinery provided by the legislation and therefore they break down again.

MR. MACAULAY: Actually that is not the question my friend is asking. He is talking about a new contract, **sir**, at the end of the expiry of the present contract. Why cannot they start negotiating a new contract prior to the one that is about to expire does in fact expire?

MR. METZLER: They have provided for

that. I think that every contract by Mr. Jackson or Mr. Russell provides that they will serve a notice within the last two months of the contract for the purpose of making demands on the company.

MR. RUSSELL: This is on a renewal of a contract, or for the substitution of a new contract, and they start to negotiate but they are just in the same position as we are in connection with conciliation matters. They may have a staff of half a dozen of international representatives who sit in on these negotiations. They may have fifty or sixty contracts that will be coming up and they have to find a convenient time for the operation of their work and they may not find it convenient to do anything about a particular contract. Although they may serve their notice in the first week it may not be reached until the last week of it. I would imagine -- I say this in all fairness -- that is a matter that is impossible. They have a bulk of work to do in servicing these contracts and they have all got to fall in line and take their turn, and that is one of the major problems you have in this field of conciliation. If you have got eleven hundred disputes, you cannot have eleven hundred conciliation officers because it is impracticable.

MR. MACAULAY: On page 15 they have said that the chairmen themselves are very busy

and all lawyers were very busy, but they said nothing about their own people being busy.

MR.C.S.JACKSON: We are not making a complaint in connection with the point Mr. MacDonald is making. We are making the point that in a contract that runs for more than one year, where there is a wage opener at the end of the first year, we take, under the present Act, conciliation services in connection with that opener, because the contract is permitted to run for the balance of the either year or two years.

MR. MACAULAY: Could you strike?

MR. MacDONALD: You cannot.

MR.C.S.JACKSON: You cannot on a long-term contract.

MR. MACAULAY: Could you strike if the contract goes on for the two years? Why write in those re-negotiation clauses?

MR. JACKSON: In the first place we do not feel we can estimate the position of the economy and rising prices and so on.

MR. MACAULAY: Oh, if it is good you want to go up; if it is bad you want to go down?

MR.C.S.JACKSON: We agree with the employer there will be a wage opener. If there is a wage opener why should the rest of the contract be closed? Why go into wage negotiations without going into economic strength?

MR. MACAULAY: If you know that is the law why bother putting in a wage opener?

MR. C. S. JACKSON: You know how a contract is negotiated. We negotiate them on the basis of getting the best you can get. In discussing negotiations taking place in the middle of a long-term contract, we have a sixty-day or ninety-day clause which says we can start negotiations sixty or ninety days before the term runs out. We start negotiating and we use that period to try and reach a settlement before the contract date. If we have not reached a settlement before the contract date, we more or less are obliged under the Act to file an application for conciliation prior to that date because many contracts have a clause that states that the contract will continue on for another year thereafter unless an agreement is reached. Therefore in order to protect your position and have the right to conciliation, you are going to make an application prior to your termination date. That means that if you have not settled in that period, you invariably have to go through some process of conciliation -- conciliation officer or conciliation board.

MR. YAREMKO: Supposing on a wage opener you are entitled to have conciliation services and a conciliation officer came in, and it did not work, what you are suggesting is that the presence of a

conciliation officer might assist but your position will not be any stronger? You still will not be able to strike even after having used the services of a conciliation officer?

MR.C.S.JACKSON: That is right. We say therefore we should have the right to a conciliation board.

THE CHAIRMAN: Do you want the right to strike?

MR.G.E.JACKSON: Which means the right to strike.

MR.C.S.JACKSON:
The two-year agreement is primarily based on the conditions of that period. Our desire is to establish certain conditions in the contract for the longer period. Then some matters can be subject to negotiation revealed by the unions asking, but the other matters are pinned down. This section has been got around in the following way because of the Act: If the parties want to agree to have a full opener, but still want to have a long-term contract, but want to have an opener with regard to, say, unemployment -- or to wages -- they may have to do the following. They have to have a special agreement that sets out that either party may terminate the agreement and both parties will then make an application for the services of the board in order to bring about an agreement. Those kind of contracts are written.

MR.G.E.JACKSON: Let us say we were thinking along those lines and changed the act as you have suggested it here to write in the contract as you say you want, and also the facilities of the conciliation board, and that is what I assume you want, I fail to see why you haven't got that now if you negotiate a one-year contract, because once you strike there is no agreement, right? So that I would think the way you would get around your whole problem here is never negotiate more than a one-year contract.

MR. RUSSELL: In the United States that is very commonplace. They have a two-year contract and they strike strictly on one issue, maybe wages. The contract is not in dispute or all the other things, but wages, and they strike.

MR.G.E.JACKSON: It ceases to become an agreement.

MR. RUSSELL: No, the contract is still there.

MR. METZLER: There is one thing here that should be said in connection with wage opener. If there is a wage opener and even although there is no formal procedure under the Labour Relations Act whereby a conciliation officer will be assigned and a board of conciliation will be involved, if either party applies to the Minister of Labour a conciliation officer will be

assigned to see what he can do to assist on a voluntary basis -- voluntary conciliation, and that is the picture. That is the point. I have no comment because I have no figures to ~~tell~~ you of how successful it has been, but I know that that has been performed.

MR. MacDONALD: So then it is not satisfactory to you if it does not go beyond the conciliation officer to the board? You do not get the way cleared for strike action?

MR. C. S. JACKSON: Our point is we should have the right to strike on termination of contract.

MR. YAREMKO: Your comparison between the United States, in Ontario you cannot write in a clause into an agreement that if the parties cannot agree on this then the union has the right to strike?

MR. METZLER: No.

there

MR. YAREMKO: While/is an agreement there cannot be a strike?

MR. METZLER: The law specifically requires that you must insert in a collective agreement a no-strike clause.

MR. G. E. JACKSON: That is what I was getting at.

MR. MacDONALD: That gets you into the very extensive arbitration procedure to settle the thing during the course of an agreement.

THE CHAIRMAN: Gentlemen, we can come

to that later.

MR. METZLER: Historically, the purpose of trying to get the collective agreement is to preserve industrial peace, and having obtained the agreement the law says now you have made this agreement, you have agreed to it, you have signed it, now abide by it.

THE CHAIRMAN: Just like getting married.

MR. MacDONALD: In the States you can strike on something that grows up in the life of the agreement and festers and festers through until the end.

MR. C. S. JACKSON: I am going to raise a question to the Board that the Board might give some thought to. That is as to whether there is any relationship between the length of strikes in this country which are lengthy -- that is that take place -- and the type of conciliation where there is built up a resentment because of delays over a long period of time and which sharpen in our opinion rather than tend to ameliorate the relations between the parties. If you will consider the length of the strikes that take place in this country over the last ten years, they are six, ten, twelve, fourteen week strikes.

MR. MACAULAY: It might be very precarious. I do not think that will follow. However, it is a helpful suggestion.

MR. YAREMKO: Maybe this is a broad question, but it seems to me upon reading this brief over most of the propositions are based on the fact of getting back into the hands of the union their economic weapon of calling a strike as quickly as possible.

MR.C.S.JACKSON: Correct.

MR. YAREMKO: I had been under the impression that the purpose underlying the Act originally was that the Labour Relations Act was set up to bring about certification, to bring about a procedure of negotiation on collective agreements and because that was set up then the unions, the trade union movement more or less voluntarily gave up this right to strike in return for this statute on the books. It seems to me that now there seems to be a general attempt to bring that economic weapon of the strike back into the hands of the unions as quickly as possible so that they could have it more securely than they presently have.

MR.C.S.JACKSON: The facts in my book seem to appear the desire of the company to continue to have protection. As long as you protect the company in allowing it to continue, you are removing from the bargaining table the only weapon the people have.

MR. MACAULAY: You can negotiate only

the one-year contract.

THE CHAIRMAN: In the federal Labour Code at the end of the year of your agreement you can get a conciliation officer, but does that give you the right to strike?

MR. RUSSELL: I understood it did.

MR. MACAULAY: Canadian?

THE CHAIRMAN: Canadian labour.

MR. YAREMKO: You say the federal Labour Code, that is our federal Labour, not the United States?

THE CHAIRMAN: That is right. Gentlemen, page 19, Collective Agreement.

MR. WREN: Could you give me an example of refusal to work overtime considered a strike?

MR. RUSSELL: Yes. The decision of the Board in respect to the firm called Hart Carpets.

MR. MacDONALD: We have that in our files.

MR. RUSSELL: Of Brantford.

MR. JACKSON: We have that in our files.

MR. YAREMKO: At the bottom of page 19 the words --

" . . . or a slow-down or other

"concerted activity on the part

"of employees designed to re-

"strict or limit output . . ."

On whom does the onus of proof fall?

MR.C.S.JACKSON: Before the Board, you mean?

MR. YAREMKO: Yes.

MR.C.S.JACKSON: The onus should be on ^{the} unions to prove it wasn't.

MR. YAREMKO: The onus is on the unions to disprove that?

MR.C.S.JACKSON: The onus would only come to refute an allegation of the company.

MR. MACAULAY: You don't have to prove your own allegations? Do you mean that if the company alleges there has been a slow-down or other concerted activity that you have to prove that that has not happened?

MR.C.S.JACKSON: In essence, yes.

MR. MACAULAY: It is?

THE CHAIRMAN: Doesn't the company have to prove that there was a slow-down or some other concerted activity?

MR.C.S.JACKSON: They have to bring some evidence before the Board.

THE CHAIRMAN: You have got to disprove that evidence?

MR. HENDERSON: We have no control over production records.

MR. RUSSELL: That is where we have our difficulty. The individual worker knows he turned out so much per day but the company in turn has all the records, and they can come before

the Board, and, frankly, we are not in a position
to disprove it. We do^{not}/have the facts and
figures on which to disprove it.

MR. MACAULAY: On the other hand, Mr. Russell, I think you can see immediately that if you were to have stricken out of the definition of strike those words, you would have a weapon which would turn the no-strike clause in the Act into a meaningless thing.

MR. RUSSELL: I would think it would put the unions on a comparable basis with management, Mr. Macaulay; the definition of lockout is so restricted, for example,^{and}/the point we are making is that an employer can lay off groups of workers.

MR. MACAULAY: Let us deal with that separately, sir, as another item. Just now I am talking about -- and I agree with you to that extent -- let us now for a moment deal with this question of definitions.

If you were to strike out those words which you want struck out at the bottom of page 19, that would mean you could slow down to absolutely nothing and as long as you are on the job there would be no strike, which would mean in effect that the clause of no-strike in the Act would mean nothing.

MR. HARRIS: I would bring to your

attention of course that in the hands of management, and this is used very frequently, is the weapon of discipline and management sets the requirements and in a plant and production in a plant, that would raise a new situation as far as management as against the slow-down is concerned. Where you have this broad definition of slow-down or other concerted activity, you being a lawyer, Mr. Macaulay, I believe, I am sure you would have a field day in court on the phrase "other concerted activity".

MR. MACAULAY: I don't know. I would like to try now I have heard how well they are paid.

MR. HARRIS: Our position is because we can find no way of publicly defining a lock-out and placing impediments in the way of employers and because he is the sole arbiter of speed of production, failing to being able to give an adequate parallel definition for lock-out, we say there is an imbalance in the definition.

MR. MACAULAY: I would rather come to a proper definition of lockout than to strike out those words. If you can find a proper definition of lockout it would be better.

MR. WREN: How about you suggesting one?

MR. HARRIS: I know it is hard. We have tried.

MR. WREN: Why not put it in the agreement to definitely state you have access to the records for the purpose of finding the amount of production?

MR. C. S. JACKSON: The only case on record where the union tried to get the records was in General Motors and it was a long strike and the company did not show the records.

MR. YAREMKO: On page 19 it says that the union must prove conclusively that the acts complained against have been taken with a view to etc., the union must prove conclusively. I would like to know who has to prove conclusively the slow-down or other concerted activity? Is it a fact that the union have to disprove that or does the employer have to prove that?

MR. HARRIS: If you are placing one against the other I think you must take into account the difficulties that are involved and it has been pointed out that it is not necessarily difficult for a company to prove through the production records, and probably quite legitimately, you know, through their production records the production in a certain period is that much lower than production in the period before and establishing the fact that conditions, working conditions had not changed. Now that is the one side of the coin, but when you go to the other side of proving a lockout unless the whole plant is locked out, unless the employer says you cannot come back in here until you accept the bargaining conditions, it is almost impossible to prove.



MR. MacDONALD: In other words your objection is the imbalance rather than this part?

MR. HARRIS: It is against the imbalance, yes.

THE CHAIRMAN: Page 20 gentlemen?

MR. MacDONALD: Is it a fact that normally chairmen of arbitration boards charge more than they are paid according to the rules?

MR. HARRIS: There may be some change in that now but for the members of the judiciary acting on conciliation it has been raised I believe mostly to sixty dollars, where it was twenty-five dollars. Well I would say in our experience that we would get a very, very reasonable deal if we were charged \$60 a day for the services of the chairman on an arbitration board. It is often very much higher than that.

MR. WREN: How high?

MR. HARRIS: Going up to \$120 and in some outstanding cases to \$200.

MR. MACAULAY: Why do you have to pay it, I don't understand. Is there not a limit to it? Why do you have to pay it when it is so high?

MR. HENDERSON: In one case we had a chairman, I believe he had an approximately three and a half to four hours' drive, he was decent enough to charge us \$60 a day but he charged us for two days for a two-hour sitting claiming he had

to drive there and back. As a result we got his bill for \$180, plus his writing the report.

MR. MACAULAY: Isn't there anybody to whom these bills can be presented for surveillance? Even lawyers' bills are looked over.

THE CHAIRMAN: Even members of committees bills.

MR. HARRIS: You say lawyers' bills are subject to questioning?

MR. MACAULAY: Yes.

MR. HARRIS: Give us the angles.

MR. MACAULAY: There are taxing officers.

THE CHAIRMAN: And the taxing officer whacks us down quite frequently.

MR. MACAULAY: He raises mine but he takes my friend's down.

MR. HARRIS: You asked the question why don't you do something about it. Very frankly this is the situation that you don't know two weeks hence or a month hence if you may have the same arbitrator sitting on a very, very important case.

MR. MACAULAY: I know but if somebody cracks their knuckles sooner~~or~~ later they won't try and get away with it.

MR. JACKSON: Does the International Union not help these small locals where costs are involved?

MR. HARRIS: Yes.

MR. MACAULAY: Shouldn't the bills be approved by the Labour Board if they assign the people?

MR. MacDONALD: Mr. Chairman, would you or somebody else answer this question for me? If arbitration is a demand under the Act as conciliation is, why does the arbitrator's expenses have to be met by the unions whereas in the instance of conciliation it is met by the government?

MR. METZLER: Of course the procedure in respect to conciliation is a public procedure that is set forth in the legislation. Arbitration has to do with the interpretation of a private document, that is a document that exists for the parties themselves. It is true they have to provide settlements of any disputes that may arise in the lifetime of their agreement, but the majority of those disputes need not necessarily go to arbitration. There is usually a well-defined grievance procedure in every collective agreement and it may be the experience of the UE that many grievances are settled in the course of pursuing the steps of the grievance procedure.

MR. MacDONALD: No doubt many are. If a company takes an adamant stand, it has to go through the arbitration which 'precludes them using their economic weapon, because they

cannot use it as they can in the States during the life of the agreement but it seems to me you have the penalty of not being able to use the economic weapon and you have the weapon of paying for service which is essentially the same kind of service as conciliation.

MR.C.S.JACKSON: I think it is a matter this Committse should carefully consider.

MR. MacDONALD: Representations have been made, not only by this organization but by others, that the cost of the chairman of a board of **arbitration** should be paid by the company that enforces the Act, making them responsible.

MR. MACAULAY: Sir, can I ask you this? Who now pays for these chairmen? Pays for their own representative and who pays for the chairmen?

MR. RUSSELL: They split it. The agreement usually provides that the expenses will be shared equally by the employer and the union.

MR. MACAULAY: When you go to a conciliation board who pays for the chairman?

MR. RUSSELL: The government pays for the chairman.

MR. METZLER: We pay for all the members.

THE CHAIRMAN: Page 21, gentlemen.

MR. YAREMKO: How often would you go to arbitration under one agreement in the course of a year?

MR.C.S. JACKSON: It depends on the company. General Electric, 35 to 40 times a year.

MR. YAREMKO: You say 35 to 40 times you have to complain to a chairman during the course of the year?

MR.C.S. JACKSON: Yes. Naturally it isn't the same with every company. We can go for years without arbitration.

MR. WREN: A regular practice in that company?

MR.C.S. JACKSON: Regular practice to always test it by arbitration.

MR. MACAULAY: Why couldn't you have an award against the loser as they have in court?

MR. METZLER: There is nothing to prevent that. It could be written into the collective agreement.

MR. HARRIS: I am afraid that would lead to a lot of dispute.

THE CHAIRMAN: It is something that will receive our very serious consideration.

Shall we proceed to section 21? This is not the place for us to argue it out. We will do that later. "Operation of Collective Agreements," page 22. Any objections? Page 23?

MR. MACAULAY: You say on page 22 that is where you say the same thing applies to all workers whether he is a member of the union or not.

That is the last line on the first paragraph on page, 22 and you are saying in effect that a man may be bound by the situation that you set out there. I say he may be bound also if you have automatic certification merely because there has been company interference.

MR. C. S. JACKSON: In this case he is bound by all the facts. He is bound to accept them.

THE CHAIRMAN: Page 23?

MR. MACAULAY: I would like to ask you this. The check-off, what would be wrong with this, I am just throwing it out to you as a suggestion, that there be something written in the Act which requires that once a union has been certified and every person in the union has to pay dues, there ^{be} should/nothing requiring the company to collect the dues, and it would be left up to you to collect the dues which are owing and which the man has to pay?

MR. C. S. JACKSON: I would think every union would accept that. We would.

MR. RUSSELL: You are proposing a union shop?

MR. MACAULAY: I don't know what I am proposing, I just threw the suggestion out.

MR. RUSSELL: It would have to be tied to some penalty if the man did not pay.

MR. MACAULAY: Oh no, you would just go

after him and enforce it in the same way anyone else enforces dues owing to them.

MR. HARRIS: You mean in the courts?
We are not in favour of going to court.

A DELEGATE: If you are going to collect dues on company time and during company business, they are not going to take a very good liking for that, and kick you out.

MR. MACAULAY: Not if it is in the Act, and secondly it need not be done on company time.

THE CHAIRMAN: Page 24?

MR. YAREMKO: This proposition of yours, Mr. Russell, is it more than the voluntary revocable check-off? The voluntary revocable check-off is later than this proposition of yours?

MR. RUSSELL: Applies to the Rand formula, to put it shortly.

MR. MACDONALD: It is a compulsory check-off?

MR. MACAULAY: It is a compulsory check-off that you are suggesting?

MR. RUSSELL: For the life of the contract.

THE CHAIRMAN: Page 24? Page 25?
Page 26?

MR. MacDONALD: Can you give us an example of setting up a dummy company as you have mentioned on page 27?

MR. RUSSELL: Yes, a case of a company

called Belleville Lock with whom our union had contractual relations. They set up a dummy company, painted a name on the door and told the employees they were no longer employed by the Belleville Lock Company. They were interested more in this so-called outfit, Artisans was the name of it, and they had nothing to do with the people. The people did exactly the same work; there was no ⁱⁿ change/any way in management, with employment, the only change was they were supposed to be employed by this outside outfit they had created and they came before the Board and said we have no employees.

MR. MACAULAY: There was no change in management or ownership?

MR. RUSSELL: Absolutely none.

MR. MACAULAY: What is the situation now?

MR. RUSSELL: They are out of business.

THE CHAIRMAN: Page 28, gentlemen,
Unfair Practices"? Page 29?

MR. MACAULAY: On page 30, Mr. Chairman ---

THE CHAIRMAN: Page 30, gentlemen?

MR. MACAULAY: Excuse me, sir. On
page 30, second paragraph line 3:

"An employee is considered guilty

"until he is proven innocent."

What you are talking about here, as I understand it, is a person who says he has been refused employment.

How can that person be considered guilty?

MR. HARRIS: I think we filed our report of the commissioner in the case of the Supreme Company this morning, where the commissioner -- and I wish the members of the Board would read that -- where the commissioner -- you will find Mr. Macaulay that he sets out the evidence, a whole raft of mainly circumstantial evidence, but very powerful circumstantial evidence which establishes, in his own words, the fact that the company took these actions against this particular employee and then he goes on to say that he has to be convinced by the weight of this evidence -- he ends up by saying he must have a preponderance of evidence. The point I am making, in this case the commissioner himself sets out the preponderance of evidence in favour of the employee.

MR. MACAULAY: No he doesn't. May I suggest to you that your submission is not correct that the employee is considered guilty. What you mean to say is that the applicant simply has not proven that the employer was guilty, but it is not the employee.

MR. C. S. JACKSON: Is not the employee guilty when he is out of employment for six or seven weeks pending a decision?

MR. MACAULAY: It is not a question of guilt.



THE CHAIRMAN: He is suffering the penalty of it.

MR. MacDONALD: If he is not guilty he is suffering the penalty.

MR. RUSSELL: Rightly or wrongly the words are carefully chosen. We say the employee is considered guilty, not in the sense that possibly you as a lawyer would look at it until he is proven innocent. Here is an employee who works ---

MR. MACAULAY: You say he is refused employment? Page 27 says a person who has been refused employment was considered guilty.

MR. HARRIS: We maintain in the particular case that the employee was not discharged for union activity.

MR. MACAULAY: That is discharged. I am talking about somebody who was not given a job.

MR. RUSSELL: We are not referring to that. That is where the confusion comes in.

THE CHAIRMAN: Let us have your explanation.

MR. RUSSELL: It was only dealing with employees who have a job, maybe worked there six years, no dissatisfaction with his work, and all of a sudden the union starts up. He is discharged, not for union activity but for a number of infractions. In this case because of a garnishee. The magistrate very fairly set out the evidence and said this is a horrible situation that a company



would discharge a man because he had a thirty dollar garnishee when his wife was sick. They do not say that he was discharged for union activity. That is what we mean when we say he is guilty and has to prove his innocence. You see the point?

MR. MYERS: Let me read you something from the Canadian Automobile Chamber of Commerce brief. This is from page 8:

"It will be readily appreciated
"that it is almost impossible
"for an employer to prove union
"responsibility for unlawful
"acts committed by union members.
"Unquestionably it would be much
"easier for a blameless union to
"disprove responsibility for such
"acts than for an employer to prove
"responsibility on the part of the
"union. Therefore we suggest
"that the legislation be amended
"to provide that unlawful acts of
"union members which relate to
"employer-employee relationship
"should be presumed to be done
"with the authority of, and on
"behalf of, the union, unless
"proved to the contrary."

MR. RUSSELL: You keep forgetting the

fact that the employer always has the possibility and the opportunity of discharging an employee and that is what he does, and then argues it later, which is right and which is wrong.

MR. C. S. JACKSON: Mr. Macaulay, if you would refer to an arbitration award by Professor Finkelman in a case of the General Electric Company in 1953 where the clause no-strike, slow-down, etc. was written into the agreement, not exactly the same words as found in the Act, and the Professor found that the union was guilty on behalf of the employee. He was responsible for every action of the employees and not only charged the union with offences against the contract but assessed damages of some nine thousand dollars against the union.

MR. HARRIS: I think for the record that was Mr. Borolasky.

MR. G. E. JACKSON: Do you believe the union should be held responsible for the activities of union members while on union duties?

MR. C. S. JACKSON: How do you mean while on union duties?

MR. G. E. JACKSON: Doing things which the union has directed him to do.

MR. C. S. JACKSON: Most of our contracts so set it out. Where the actions of the employee have resulted from a direction from the union. There would be no objection to that. The laws of

our contract usually show such allegations or otherwise.

MR. MACAULAY: How do you establish that, sir?

MR.G.E.JACKSON: He has not answered my question.

MR. C. S. JACKSON: We take the position that the unions cannot be held responsible for any individual act of an employee.

THE CHAIRMAN: That is if an employee breaks a window while they are on strike you are not responsible for that?

MR.C.S.JACKSON: If a worker in a department slows down or stops work for some beef he has got against the foreman.

MR. G. E. JACKSON: I am speaking of union business, performing union business, whether it be strike or what it be. I take it you have no objection if it is in legislation?

MR.C.S.JACKSON: We are not asking for it.

MR.G.E.JACKSON: I know you are not but you have no objection?

MR.C.S.JACKSON: What we are asking for here is that if the commissioner was given powers to reinstate where he found the discharge was without cause, as an arbiter has that power, then it would be a different situation, but the

commissioner must find it is because of union activity and as it has been pointed out, it is difficult to prove that, where it is not difficult to prove that the individual was discharged without just cause. In this particular case that is before the Board, the Commissioner on two occasions during the hearing went as far as recommending the reinstatement of the individual as of October the 1st, and he put it just as clear as that, that this man should be reinstated by tomorrow morning, October the 1st, which does not reflect itself in the award. I think his hands were tied in some respect.

MR. HARRIS: Mr. Jackson was asking the question here and I certainly was not clear as to the question. If Mr. Jackson means is this union in favour of the Act being amended to provide that a union can be sued, the answer to that is no, Mr. Jackson.

MR. G. E. JACKSON: Not in favour?

MR. HARRIS: Not in favour.

MR. G. E. JACKSON: Why?

MR. C. S. JACKSON: Because we say it is going to open up a series of situations where everything is going to be in the court and once you open it up on a single employee where a union can be hauled into court the unions can be put out of business very quickly by injunction.

MR. MACAULAY: What about a consent first having been obtained from the Labour Relations Board?

MR.C.S.JACKSON: The Labour Relations Board, I don't think, is in any position to take on these matters.

MR. RUSSELL: They are a voluntary organization.

MR. MACAULAY: What does that matter?

MR.C.S.JACKSON: We do not have control over the employees.

MR.G.E.JACKSON: That is not exactly what I mean.

MR.C.S.JACKSON: You said within the terms of the contract.

MR.G.E.JACKSON: I was getting more or less at the responsibility.

MR.C.S. JACKSON: Within the terms of the contract.

MR.G.E.JACKSON: If you are a good union, which I have no reason to think that you are not, if you are a good union and you have a contract, you have every desire of living up to it. If you are going to live up to it then you should be held responsible. That is what I was getting at.

MR. HARRIS: We do commit ourselves in our contract to accept responsibility.

MR.G.E. JACKSON: And I am taking from that

that you have no objection to them being held responsible.

THE CHAIRMAN: Gentlemen, it is not quite four o'clock and we are going to stay here until we are finished.

MR. YAREMKO: Mr. Jackson, on the bottom of page 30 you say:

"It is our contention that

"the onus should be on the

"company to prove that they have

"discharged the employee for

"good and proper cause."

not
Could that conceivably lead to the situation that the company might be in a position that they would have to prove every firing, or would have to appear before you and prove that every firing was for cause?

MR. HARRIS: Where there is a union contract that is the case now. We can challenge any firing whatsoever. Now unions don't do that of course when they know certain facts in connection with the discharge of a particular person, but the right is under the union contract to challenge any firing.

THE CHAIRMAN: Page 31, gentlemen?
Page 32, "Injunction."

MR. MACAULAY: I presume your greatest objection to the injunction stems from the words you use on page 33: "Sneak attack" that you have

no notice by the company that they are going to take the step and that you at least would like to have an opportunity of presenting your own material when the hearing is heard, as to whether the injunction should be issued or not.

MR. C. S. JACKSON: That is our first objection, the ex parte aspect.

MR. YAREMKO: It is the ex parte that you are objecting to?

THE CHAIRMAN: To the interim application.

MR. C. S. JACKSON: We do not believe the injunction is a weapon which should be used.

MR. MACAULAY: If it is used in management disputes and used in every other form of living in this country why should not it also apply to you, except as to the unfortunate aspect of the interim injunction ex parte?

MR. HARRIS: Because that is a one-sided weapon. Would there be a possibility of unions securing injunctions against an employer?

MR. MACAULAY: I would think so.

THE CHAIRMAN: You know it is very difficult to obtain an injunction in our courts in any event for anybody. Not interim injunctions but the permanent restraining injunctions.

MR. C. S. JACKSON: The interim injunction does the job.

THE CHAIRMAN: Oh, no, it does not.
It is only good for a very short period of time.

MR.C.S. JACKSON: Seven days can break a strike. One day you can break a strike with an interim injunction.

MR. HARRIS: We propose they should be consistent and appear before the Board to seek permission. They have to get permission for everything else, why not permission for that?

THE CHAIRMAN: They could not apply for an injunction without permission from the Labour Relations Board?

MR. HARRIS: It would be a very helpful step, sir.

THE CHAIRMAN: I do not see how we can change the rules of practice so far as the Supreme Court rules are concerned.

MR. MACAULAY: Incidentally it is not provided under the Criminal Code. You say on page 32 you want a change in the Criminal Code, but it is not the Criminal Code.

MR.C.S.JACKSON: There are conditions under the Criminal Code which can be used in the request for an injunction.

THE CHAIRMAN: Gentlemen, it is now four o'clock and I thank you very sincerely as Chairman and on behalf of the members of the Committee for the very interesting presentation

that you have given to us and you can be assured that your recommendations will receive our very serious consideration.

MR.C.S. JACKSON: We would like to thank you for the opportunity of appearing before you.

---Whereupon the Committee adjourned at 4.00 p.m.

to resume at 11.00 a.m., Thursday, October 17th.

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LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,
Queen's Park, Toronto, Ontario

Thursday,
October 17, 1957

JAMES A MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH, Q.C.	Committee Counsel

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	J. W. Spooner
	Albert Wren
	John Yaremko
	Robert Macaulay

APPEARANCES:

Mr. J. B. Metzler	Deputy Minister of Labour
Mrs. Josephine Grimshaw	Economist, Ontario De- partment of Labour
Prof. Harold A. Logan	Adviser
Prof. H. D. Woods	Director of Industrial Relations, McGill University

A
PM
17th

THE CHAIRMAN: Gentlemen, it is now eleven o'clock, and although we do not have a regularly constituted quorum of this Committee I would ask that someone move that we consider ourselves a quorum so we can proceed with this submission.

MR. MACAULAY: I so move, Mr. Chairman.

THE CHAIRMAN: Moved by Mr. Macaulay, seconded by Mr. MacDonald, that we consider ourselves a quorum. All in favour? Carried.

Before we start the submission the Minutes of the meetings of October 1st, 2nd and 3rd have been before the members of the Committee, and I would now entertain a motion that they be adopted.

MR. WREN: I would move they be adopted.

THE CHAIRMAN: Moved by Mr. Wren, seconded by Mr. Macaulay, that the Minutes of October 1st, 2nd and 3rd be adopted.

This morning we are to have a brief presented by Professor H. D. Woods, Director of Industrial Relations at McGill University. The system we have been following, Professor Woods, is that the brief is to be read and upon its having been read we then deal with it page by page.

PROFESSOR WOODS: Mr. Chairman and gentlemen, I would like to start my presentation with an apology for the form and the errors that

are found in this brief. The reason for that is that it was prepared in a very short time under some stress, because the invitation to submit it came shortly before the opening of the term at the university, and then we ran into a comedy of errors including such things as flu and we could not get the university duplication machine, we had to use our own Ditto machine, and we had a lot of trouble with it. Also I had a court summons to report for jury duty. I must make some apology for errors in spelling, punctuation and so on, but I make no apology for the substance of it. I am responsible for that.

---(Professor Woods reads brief)

PROFESSOR WOODS: I might say there is an Apperdix B, which deals with a problem which exists. I did say at one point that in my opinion boards if retained, as I propose they should not be, conciliation boards should be fact finding and awarding boards. That is all contained in Appendix B, which I will not read.

THE CHAIRMAN: I think we might be interested in Appendix A.

PROFESSOR WOODS: That merely draws attention to the clauses that I think would need to be amended if these hair-brained schemes of mine are adopted, and are just suggestions of what they

would be like.

MR. MacDONALD: In Appendix B, you are indicating a sort of confusion of purpose that our conciliation boards are now presented with two purposes, and they are conflicting, you cannot do both at the same time, and yet that is their job.

THE CHAIRMAN: Would it be asking too much to have you read Appendix B, professor?

PROFESSOR WOODS: No, I will read it.

---(Professor Woods reads Appendix B to his brief)

MR. MACAULAY: Mr. Chairman, I am just wondering if the professor would like five minutes before we start questioning him.

THE CHAIRMAN: Professor Woods, would you like five minutes?

PROFESSOR WOODS: Yes, thank you, Mr. Chairman.

---(Five-minute intermission)

THE CHAIRMAN: Gentlemen, Mr. Macaulay has made a suggestion to me which I will ask him to make to the Committee. It may be we will depart from our usual procedure of discussing this brief page by page and discuss it in the manner in which Mr. Macaulay suggests, if it meets with the approval of the Committee.

MR. MACAULAY: I suggest to you, in

view of the fact that this deals with two aspects of the Labour Relations Board, the conciliation officer stage and the conciliation board stage, and since the whole brief is directed pretty well to those two subjects and they are so interwoven, instead of doing this brief page by page we might discuss the subject as a whole entity rather than breaking it up.

THE CHAIRMAN: You would be going back and forth from page to page?

MR. MACAULAY: Yes.

MR. MacDONALD: If you want a pattern you may be able to find it in the conclusion. Basically I agree with the suggestion Mr. Macaulay has made.

MR. MACAULAY: Certainly on pages 30 and 31 I have underlined certain things, but it may be better to lump them all together.

THE CHAIRMAN: Does the suggestion of Mr. Macaulay meet with the approval of the members of the Committee? That being so I would suggest that we proceed to question Professor Woods in that manner.

Mr. Macaulay, if you would start and give the members of the Committee an idea of what you have in mind?

MR. MACAULAY: Professor Woods, my friend on my right Mr. Yaremko has reminded me that

perhaps some of the reasons I have enjoyed your very excellent brief so much this morning was because it supports to a very great extent a speech which I gave in the Legislature two years ago, and one tends to enjoy the approbation of independent sources.

The one thing that interests me most about your brief is the observation, and I think it is a singularly important statement which you made, which will disturb every politician, and I am being perfectly candid with you, and I think you may agree with me when I point this out to you, that if your submissions were to be enacted there is a possibility of an increased number of strikes. That is one of the most significant statements that you made. I think you would agree with that and I think you can understand the sensitivity of a politician in that particular fact.

Now, dealing with that one point I have very few questions to ask you, but I would be appreciative along those lines if you would indicate to me -- you do not commit yourself to increase in strikes, but if there were to be an increase in strikes do you think that influence would be altered in any way if only the conciliation board itself were taken away and conciliation officers were made available, or were even compulsory, but over a much shorter period of time, and perhaps

in a way that would not make use of them as a tactical manouevre.

PROFESSOR WOODS: Mr. Chairman, I would like first to assure the members of the Committee that there is no collusion between Mr. Macaulay and myself. I did not read his address in the Legislature nor did I know that he had delivered it, or perhaps I might have avoided some errors in this.

Now, in answer to your question, I think it is quite correct one of the reasons why conciliation officers have difficulty -- and I have heard this from conciliation officers not only in this province but in others as well -- is that they are weakened because between them and the strike is the Board and to take the Board out the conciliation officer has the support of the possible break and the parties will be more inclined to bargain genuinely before him because they cannot treat him in the cavalier fashion they sometimes do. I know in my own province I have heard both labour and management say when you are going through the conciliation officer stage you are merely meeting certain legal requirements but we do not get down to business until we get before the Board because it has the power to face up to the responsibilities.

I agree with you if you eliminate the second step certainly the first step would be better.

MR. MacDONALD: Mr. Chairman, may I try

to sort out one point there? Is it not correct that one of your terms of thinking is the use of the strike as the yardstick? An industrial peace is not necessarily the only and best yardstick. You may have the offence of a strike but not have genuine industrial strife. These things go on because of enforced arbitration as opposed to the American system where you get the thing settled and it provides not greater occurrence of strikes than we have in Canada?

PROFESSOR WOODS: I will put it this way: If you take the strike out altogether, rule it out, there is not much left and our whole system is based on the assumption that ultimately there may be a break and the parties are forced to take a more responsible position because they have to pay the price of the breakdown if it comes. It is not necessarily the strike itself but the fact that it can happen.

Take Australia, for example, where they have the compulsory court industrial relations, both commonwealth and in the state, in various phases. They all go to court and argue the case before the court. I think all the major disputes are settled by the court and not with the kind of bargaining that we have. I do not like the substance or the results of that court action.

MR. MacDONALD: Let me deal with another

point that is implicit in what Mr. Macaulay says: Would you favour the proposition of a time limit within^{which} the process is gone through, and at the end of which they can strike if they want? For example, the figure of sixty days has been suggested, and yesterday it was much more. You could start your negotiations in the eleventh month; you have the twelfth month to negotiate. At the end of the sixty-day period your contract ends and you are free to strike if you want.

This time limit proposition, would that fit in with the kind of proposal you have?

PROFESSOR WOODS: Well, I would have no objection to the time limit being set, but merely at the termination of the agreement I think the result would be the parties would just keep their bargaining back a little earlier. They may think they can get their bargaining done before they reach that stage. What I am objecting to is the extension of the agreement beyond its termination date and the use of the manipulative tactics that are used by one party or the other to move to a more valuable position in time, the union trying to move the thing to a time when the employer cannot afford a strike and the employer trying to move it to a time when he could afford a strike, and in that way altering the bargaining power.

In this proposal of mine the deadline would

be in the contract itself.

MR. MacDONALD: Let me make my question a specific one. Under your proposal you think it is workable to complete in a sixty-day period under normal conditions?

PROFESSOR WOODS: Yes, I think it is. I do not see why not. They will start bargaining a little earlier.

MR. MACAULAY: I do not know whether Mr. MacDonald was asking about the whole procedure which is now set up normally, the conciliation officer and conciliation board, if necessary. Are you talking only about the conciliation officer stage?

MR. MacDONALD: As far as I am concerned, I am accepting the throwing out of the conciliation board except where it is jointly agreed upon for different reasons. I am in almost complete agreement with Mr. Macaulay. I did not think it was possible to psychoanalyze an Act, but that is what has happened here.

MR. MACAULAY: On page 27 -- I will refer to the page specifically because it is implicit throughout your presentation -- there is a direct suggestion that neither party can use the conciliation officer as a means of manuevr~~ing~~ its opponent out of the use of the work stoppage. Now, I wonder if that was not a very diplomatically put phrase. Candidly, do you not mean either party

or the union? How could the union use the conciliation stage to manoeuvre itself out of the work stoppage? In short, did you not really mean that they could not use the conciliation officer to manoeuvre the work stoppage since it can only be carried on by labour? Labour is not likely to manoeuvre itself out of it.

PROFESSOR WOODS: I used the words "work stoppage" deliberately because I have pretty well abandoned the term "lockout" because the suggestion is you can always attribute a strike to the union and always the lockout to management. I think that is a bit unrealistic. Management does not use the lockout very much, but they sometimes make the decision, "We are going to go on a strike" so that I am suggesting you cannot really say that merely because the union takes the first act and everybody is forced into it. That is the reason I used the words "work stoppage", and I think everyone can use the compulsory conciliation officer to their advantage.

MR. MACAULAY: All right. That leads me to the second proposition. Is it your view that one of the two parties uses the conciliation procedure more than the other for the purpose of protracting or obtaining time?

PROFESSOR WOODS: Certainly I imagine that Mr. Fine's records would show a very much

larger number of requests for conciliation coming from the union than from management, but you must think of it in the context of the relationship. In the vast majority of cases it is the union that is making the demand.

MR. MACAULAY: Yes, but the agreement automatically goes on for another year ahead and you do not ask for the conciliation if you have not had it or they had it as a block and it may given as to why they want it.

PROFESSOR WOODS: I would agree with that.

MR. MACAULAY: I was wondering if your view was that one of the parties as opposed to the other likely does delay work more advantageous to one than the other?

PROFESSOR WOODS: I have no figures, and I would certainly hesitate to say it does in case they come before me at a board hearing. I have detected some times it is the union that wants the delay. They may be waiting for the completion of an agreement somewhere else or they may be waiting for a more available time when the management cannot afford the strike as well, and they delay the thing.

MR. MACAULAY: Your experience is the delay can be used by both sides, and it just should not be available? That is your point, is it? If they want to manoeuvre let them do it on the merits.

PROFESSOR WOODS: Yes, take their chances.
What I am suggesting is thatⁱⁿthe conciliation process
itself both sides become enmeshed in the tactics of
the parties.

MR. MACAULAY: May I ask you one last
question because I am sure all my friends here want
to ask you questions. Would you tell me a little
about your views of civil service in relation to
conciliation -- conciliation procedure?

PROFESSOR WOODS: Well, I thought I had
neatly ducked that one.

MR. MACAULAY: I know you did, but I am
bringing it out for you. I would like your views,
not in an attempt to embarrass you, but I think the
position of the civil servants is very close to that
of perhaps the firemen and police. That is my
view and I would like to hear your views.

PROFESSOR WOODS: I would only say this:
this is as I suggested in my brief a political de-
cision. It is a decision in the public interest,
and whether or not the public or its representatives
in the Legislature feel that the occupation or the
service of the civil servants is sufficiently im-
portant to withdraw them from the fully free bulk
is a matter which, quite frankly as a citizen, I
might have views on, but in this context I would
rather hear a great deal of debate before I come to
a final decision on it. I can see there are

reasons why the right to strike of the civil servants may be extremely embarrassing. After all, they are employees of the Crown and it takes on some of the aspects of a strike against the State itself, and I think we have to consider that very carefully before we grant that right to civil servants.

MR. MacDONALD: But from the strict criteria of public interest and public inconvenience, I personally have difficulty in seeing how you can make a case that it is any greater public inconvenience, for instance, than a few employees of the steel industry which is going to have ramifications throughout the whole country.

PROFESSOR WOODS: I am afraid I will have to withdraw behind my protective screen on that.

MR. MacDONALD: I would like to go back to the second last question of Mr. Macaulay. Being perfectly frank with you, it is within the present framework of your whole negotiating process, conciliation and everything, both sides use tactical manoeuvres of delay to serve their purpose?

PROFESSOR WOODS: Yes.

MR. MacDONALD: But surely is it not accurate, until you have got your final agreement retroactive to the time of the expiry date of your contract the one that is going to lose is going to

be your union in every instance?

PROFESSOR WOODS: Not necessarily.

MR. MacDONALD: Unless your contract is going to come down with lower wages rather than higher wages?

PROFESSOR WOODS: There are two ways of looking at that. I have had this issue before me a good many times. Almost every collective agreement is a package deal. I see no reason, in logic at least, to say that the package will not be different if there is no retroactivity paid than if retroactivity is paid. In other words, the company may be quite prepared to make concessions in certain areas to buy their way out of retroactivity, and a union may be quite prepared to give up its retroactivity and take something else in its place.

MR. MacDONALD: But in actual practice there are some industries that will be able to get retroactivity almost automatically. It is sort of a sweeping thing. The electrical industry has that to a great extent, and the car industry. Not so the building trades because you cannot find your employees if you want to make it retroactive; they have gone. It is assumed you will never get it, or rarely get it.

Now, in those circumstances we do not automatically get it, and the union is the one that is going to lose.

PROFESSOR WOODS: I cannot agree with that; I do not think it is logical.

MR. MacDONALD: Not from the point of view of logic but in terms of ---

THE CHAIRMAN: Let us not wait for logic in this Committee.

MR. MACAULAY: Is there not another factor that perhaps you have not mentioned that supports your position, although you have earlier mentioned it, that a union can, apart from retroactivity -- may be anxious to have delay of one month or two months, because if they settle now for -- they may be prepared to settle for 30 cents an hour, whereas two or three months from now a very big settlement may have been made with one of the leading competitors which is going to be 60 cents, and if they can get 60 cents then these people can get 60 cents, and that will be better than 30 cents retroactive. That does happen.

MR. YAREMKO: Is it not also the case that the economic weapon of the strike is stronger at certain periods of time within a year or over a period of years than in other periods? It does not have the same strength 365 days a year?

PROFESSOR WOODS: Quite right.

I might give an illustration in answer to Mr. MacDonald's question. I had a case before me one time which we actually settled, acting in

the role of conciliation board chairman, in which the issue finally boiled down to retroactive versus union security, and just from working with the parties ultimately the union gave up union security in order to get retroactivity, or, putting it the other way, the company granted retroactivity in order not to have union security. That is what I mean by the package deal.

MR. MACAULAY: They are really negotiating retroactivity in the same way they are negotiating ---

MR. MacDONALD: The only point I am making is, there are some industries where negotiating retroactivity is not possible at all because it won't be considered.

MR. METZLER: Mr. Chairman, I do not know whether you will accord me the privilege of making a comment on one aspect of the situation that has arisen, but there is one thing in connection with conciliation where at the board stage or conciliation officer stage -- this is hypothetical; it has to be hypothetical -- and when you are dealing in a rising economy you can pretty well accept the fact that the outcome is going to be adjustments in wages upwards with improvement in working conditions and the granting of other things that are desired and aimed for and sought after. What will be the position if we find ourselves in

a falling economy? The question that arises in my mind is this: even although very important, at least in the conciliation process, we have got to bear in mind that until such time as that process has been completed there will be little or no change in the wages and working conditions under which the people in a particular industry will be operating. Is there any advantage in that situation when the time will come where there may be a change to negotiate down? Certainly in my way of thinking, to carry that further, it reinforces that thought, that retroactivity as such is best left to be dealt with at the bargaining table because certainly you could never adjust^a/retroactive change downward. That is one of the difficulties that can arise, subject to the vagaries of the economy itself. It is a free society and we just do not know whether times will be good next year, or bad.

MR. MACAULAY: With respect, Mr. Metzler, I do not see what the time taken in -- let me go back. Would you not agree with me, professor, and I think Mr. Metzler will, that originally this time business -- this deflection of time -- was thought of in terms of cooling off people, was it not?

PROFESSOR WOODS: Yes.

MR. MACAULAY: Would you not agree with me that today there are still those who maintain

that, and there are others who would say it does not cool anybody off, it fans the fire?

PROFESSOR WOODS: Yes.

MR. MACAULAY: Therefore, I would turn from that to something else. I cannot see how shortening up the period of conciliation has anything to do with whether the economy is retrogressing or progressing.

MR. MacDONALD: It seems to me you are bringing in another objective than what Mr. Woods adduced as the present objective of the legislation. The most interesting thing in the present legislation is it does not set a standard at all. All it wants is an agreement. The agreement may be in the terms of the community, the worst possible agreement. They may have to pay a terrible price for it, but it is an agreement, and you are happy. You are bringing another objection in, whether or not it is fair or possible to reduce wages.

MR. METZLER: I can say this, as a result of the conciliation process there have been one or two -- I don't know whether there have been any more than that -- where the item of dispute that went to the conciliation board was whether or not there would be a reduction in wages. No question about that. The particular instance I have in mind is in the knitting industry, in the hosiery industry particularly, where the union said, "We

will renew on the present basis" and the company said, "Oh, no, we are presenting to you the demand that the wages in the plant be reduced by ten per cent."

MR. MACAULAY: Was that on a conciliation, on renegotiating halfway through a contract?

MR. METZLER: No. It went through the conciliation officer stage and to a conciliation board, and I think it was settled on the basis of the reduction.

MR. YAREMKO: You subscribe to the theory or idea that the main purpose behind legislation of this kind should be attaining agreements^{without}/ work stoppages; that is the purpose of this type of legislation?

PROFESSOR WOODS: I think that is clearly implicit in the legislation itself.

MR. YAREMKO: Going back to page 10 there is a very important statement there:

"But it is questionable that the
"additional time imposed by the law
"through compulsory conciliation has
"in part produced more agreements
"without work stoppage than would
"have otherwise been achieved."

All your premises are based on the fact that this type of system would produce more agreements without work stoppages than the present system?

PROFESSOR WOODS: Well, this goes back to the point Mr. Macaulay raised earlier about the possibility of the increase in strikes. I do not say there would not be an increase but I suspect that after a while it would even out for a number of reasons. I think, first of all, we would have much more genuine bargaining in good faith because of the fear of not bargaining, and I suggest at the present time all these things that do come before conciliation bargaining in good faith have been dampened by the fact that you have these compulsory stages. I would also suggest that in the States, where they do not have our compulsions, the man-days lost -- I have not got the figures; I am not sure what they are. I did see some figures at one time but I gather that our strike record -- the number of strikes as compared with the number of unionized workers and the number of man-days lost was less in the States, but I suggest there are two corrections to be made there. First of all, the major issues have fallen out there first, and that will undoubtedly produce more industrial conflict and there is a tendency for us to imitate what happens there. Secondly, the figures made no adjustment for the composition of the labour force, and when you realize that in this country about one-sixth of the union employees work for the railways, where there are very few strikes; I am

talking now of over a fifty-year period, whereas in the United States only one-sixteenth are on the railways. If you take that group right out and look only at the industrial side, the record of Canada is very emphatic.

MR. MACAULAY: I would say there would be an influence because of the Catholic Union in Quebec where there would be a different force there; would there not? Would you say that is true?

PROFESSOR WOODS: It works in two directions. A few years ago it cut down on the strikes, and at the present time they are probably higher than the international union.

MR. MACAULAY: Well, I do not want to lose you on this point. You say it is possible that there may be a greater number of strikes if this whole programme of yours was enacted, but I think you said before that it is possible that by merely taking out the board stage and cutting down on the time of conciliation and so on that that would not increase strikes at all?

PROFESSOR WOODS: I do not think I actually said that.

MR. MACAULAY: I took you to have said that. What did you say as to that?

PROFESSOR WOODS: Well, I did say the conciliation officer would be much more effective

than now, but whether he would be more effective than himself plus the conciliation boards I cannot really say. I would be inclined to think that would be more effective because I suggest, as I indicated here, this justifying process that takes place before the Board sets up targets and makes them public and it becomes difficult to recede from those positions that are published.

MR. MacDONALD: Would it be more effective because the conciliation officer always operates in the accommodative role rather than the so-called normative role?

MR. YAREMKO: May I express a thought in relation to that aspect. The effect of the conciliation board working in a normative way, the present legislation inherently has the seat of ~~the~~ use of its procedure for capital purposes, so that anything which is done to reduce the use of the procedure for capital purposes will be a step along the road, even if it did not go all the way with your statement.

PROFESSOR WOODS: I would suggest that it would be a step along the road, but to a more mature attitude and behaviour on the part of the parties. Whether there would be an immediate increase or reduction in strikes would be difficult to say, but I do feel if we did confront the parties with responsibility for their own actions

earlier and avoid this possibility of manipulations they have now, they would much more readily fashion procedures of their own.

MR. MACAULAY: And we would cast the responsibility on the shoulders of the person to whom it truly belongs rather than throwing the blame back on the government for having stalled for so long?

PROFESSOR WOODS: That is right.

MR. MacDONALD: What is your view of an observation made yesterday, which I have been thinking about, that while in Canada we might have fewer strikes than the States, they are longer, and they are longer because of this procedure that we have under the Act which permits the building up of tension and unresolved difficulties and so on?

PROFESSOR WOODS: I am afraid I cannot answer that because I have not studied it at all.

MR. WREN: What would happen in the general attitude in the power of industrial peace if you changed the Board's procedure and we find some employers and some unions, as there are, who would look upon it as an opportunity to seize immediately, as a matter of fact, to develop the thinking immediately that their next step will be one of economic action?

MR. MACAULAY: I do not hear you.

MR. WREN: If the thinking develops that

there is the immediate availability of economic action -- in other words, let us suppose they are doing, or trying to do, what some of them may be doing now. They say, "Yes, we go through the conciliation officer stage, we know we will have to go through that, we will calculate the time it takes to go through that, but we are advocating going for a strike, so look out,"-- as the case may be.

PROFESSOR WOODS: I do not see why that would make up their minds any more than at present. They still have to face that when they go through the Board.

MR. MacDONALD: Would that not bring a counter-reaction? Forgive me, but that observation is based on the premise that workers strike because they sort of like the thing, and it seems to me the full consequences of the strike fall on the worker and he is going to be hesitant about using it.

MR. WREN: They are just the same as some employers who are so adamant that they will not have unions under any circumstances and they fight it. There may be a hostile employer who feels that while going through the mechanics of a conciliation officer procedure he can enforce his economic weapon. I do not know; I am just asking the professor. Might he not have quite a

weapon in his hand at the outset to discourage union activity at all?

PROFESSOR WOODS: Well, as you probably noted I deliberately stated that I was not dealing with any other aspects of the Act other than industrial dispute settlements. I do not know how well the law operates which covers the unfair labour practices work in Ontario, I know in some provinces they do not work very well and it may be necessary to tighten that up. I cannot see that the position would be changed very much simply because you eliminate one or both of the compulsory conciliation steps.

In my own experience I have found that negotiations, particularly where one of the parties has had no experience in collective bargaining, are clouded a great deal by sort of a sentiment for the relationship whether they want it or not, and there are employers at that stage who are so, shall we say, very strongly anti-union, and they have the lame-brained hope they will be able to keep away from this matter without having to deal with it, and for that reason I suggest the compulsion should be got in on first negotiations.

MR. WREN: To illustrate what I am thinking more clearly, I can think of one example where a company through, let us call it compulsory certification, the Board has certified the

sion in this case, an agreement was effected through the processes that we now have. Now, the employer knows that ^{on} a subsequent date, approximately ten months later, he is going to have to sit down and bargain with the union he didn't want in the first place. Now, he has said that he is going to fight them to the limit. He chooses to do that but he knows he has a little time to strengthen his own position because it is going to go through the officer stage and Board stage and then further strikes or lockouts, whichever acts first.

The point I am making is, if we remove that time which is now involved in the conciliation board stage would that strengthen the employer's hand or would that time, if it were left intact, give public opinion an opportunity to assess the picture as it actually is? What I am getting at is, is there a danger in eliminating this conciliation board process, that it may take away the time when the situation may be assessed by others than those directly involved in the dispute?

PROFESSOR WOODS: I suggest that first of all you have a conciliation officer. One of the parties will call him in, and I think it would be a rare case where the other party refuses to deal with him, even though the law did not compel him.

MR. WREN: I have seen it done where

a conciliation officer goes in, they do not refuse to deal with him but they sit down and have a cup of coffee and they make a conscientious report to the Union or Government that they have discussed the matter with him, but they have made up their minds beforehand that they are going to the Board anyway.

PROFESSOR WOODS: Well, that should be eliminated at the Board stage. You see, if we eliminate the Board stage then I think you would get quite a different attitude developing.

MR. MacDONALD: I think you had your finger on part of the problem earlier when you said it would depend on how effective the unfair practices section of the Act are. I think we have had a number of representations that they are not particularly effective as yet.

PROFESSOR WOODS: I do not know how effective that is. I know you have this special provision about the Minister ordering. I do not know how much that is used but it seems to me if that were used fairly extensively ---

MR. MacDONALD: We had some pretty conclusive evidence yesterday where a really adamant manager just frustrated the whole operations of the Act all the way along the line. It is either impossible or so difficult that they do not pursue it.

PROFESSOR WOODS: Do you not think he still would with or without the conciliation procedure? I do.

MR. YAREMKO: Turning back to what we were discussing earlier on page 16 you say:

"Broadly, compulsory conciliation
"should be used much more narrowly
"and the delay in the use of
"direct economic action more
"narrowly still."

Now, you have used throughout your brief the expression "work stoppage", but to define "direct economic action", it does come down to a strike or lockout, the strike on one side and lockout on the other. The problem that may present itself -- you may threaten or bring about the use of direct economic action more quickly, but if that is done is it being done equally to both parties? You are putting the economic weapon of the strike back in the hands of the union at an earlier stage, in your full statement, almost at the very beginning.

Has management on the other side -- does it also have a strong economic weapon from the very beginning?

PROFESSOR WOODS: I do not see how it could be changed except that it would reduce this manipulative possibility. I think there is a good deal of substance in what Mr. MacDonald was

saying earlier. The strike hurts both parties and ordinarily the employees do not like the cost to them. I do not like this point that the worker bears the cost of the strike more than the employer. You will have situations where an employer cannot stand a strike. You will have a great many other situations in which the workers cannot stand a strike. I have seen quite a number of instances of this, and in attempting to conciliate the unions have told me confidentially that they could not possibly have a strike here, that they would fall to pieces in two days.

I am not sure that bringing it to time changes it.

MR. YAREMKO: But shortening the period of time or bringing about the ability to use the weapon more quickly would not do the union much good if the weapon is weak to begin with, whether it is to be used today or sixty days or ninety days later.

PROFESSOR WOODS: That is right, and the result will probably be the union will not be able to strike a very hard bargain.

MR. MacDONALD: I think there was another point you mentioned earlier. We in our discussions in Committee have always assumed the strike was something the workers used and the lockout was used by management. As a matter of fact, a strike

may be something management uses by creating something where a worker has to go on strike. It was not made by workers, it was made by management, so it is not a sharp division?

MR. MACAULAY: How long have you held this view? I must apologize if you have published extensive material on these views heretofore, but how long have you held this view with reference to deleting the Board? Is it a recent evolution?

PROFESSOR WOODS: It is an evolution which did not come at any particular date. My own experience in handling conciliation boards made me realize that there were serious difficulties somewhere, and while the Quebec law differs from yours the operation is very similar, and I began to toy around with ideas and try to see what could be done. I experimented and tried it out on some of my colleagues, some of the unions and management, and I do not think I have found anybody to agree precisely with this.

MR. MACAULAY: The reason I ask, two years ago when I sprung from my small position in the House, my recommendations, which were fourteen in number, were treated as something which should happen behind a bush and then be mopped up. Labour in Toronto was very critical of me and went on record as being so. The very same man who was so critical came before this Committee and left the

suggestion that these same views were his, and not mine, and that is why I was interested in the evolution of this.

PROFESSOR WOODS: Well, this is quite a long evolution. In addition to experience on boards I also decided to trace it back through history. If you will remember, Mr. King went before a Congressional committee in Washington about 1914, and Mr. King at that time was out of power and out of the country, and I do not know whether he intended to come back, and he stated quite clearly that the compulsory board system was put in to get labour and management to sit down around a table. He said that the complaint he was constantly getting from labour was that management would not meet with them and he did this to force them to sit down around a table.

The other thing of which they complained was that they could not get information when they did sit down and so he designed this Act which did two things: one, it set up a compulsory board which in my view would give compulsory recognition, although it was not called that at the time. Secondly, it put in the Act that the Board had the power to subpoena witnesses and so on, so that they could go through a full investigation.

When the federal government set up its committee in 1943 to investigate what they should

do with the mass of orders in council that had been passed in the labour relations field, they had an inquiry something like this, and at that time I recall one of the statements made by Mr. Burt. Mr. Burt was arguing that the United States procedure of certification should be brought into Canada, and his reason was rather interesting. He said he wanted to get a recognition. He said there were a lot of new workers organized by unions and the employers would not deal with them. He said a very significant thing:

"What is the use of the IDI Act?

"We have in a great many cases

"been able to force the employers

"to recognize us."

I suggest that is precisely what Mr. King passed the Act for. However, his complaint was it was much too slow a process.

MR. MacDONALD: Who made that comment?

PROFESSOR WOODS: George Burt. I suggest once you introduce a certification procedure and if it is working then it seems to me that you narrow down the real role of the conciliation officer and he should be basically interested in the basic terms of agreement rather than getting a collective bargaining agreement, and combining experience with some research I eventually came upon this.

THE CHAIRMAN: It is now one o'clock,

and I presume you want to continue questioning the professor?

MR. MACAULAY: I am finished.

THE CHAIRMAN: We do not want to hurry things too much, but if we could finish before going to lunch we can do so.

PROFESSOR WOODS: I am quite prepared to come back this afternoon, but I do have a luncheon date, if I could keep that.

THE CHAIRMAN: Very well, we will adjourn now until two o'clock.

--- Luncheon adjournment.

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---On resuming at 2.00 p.m.

THE CHAIRMAN: Gentlemen, I see a quorum. I believe Mr. MacDonald had some questions he wanted to put to Professor Woods.

MR. MacDONALD: I do not know whether this is a question or not but there was one sort of thesis in Professor Woods' brief: Namely, that most of our present legislation is generally patterned on the Federal legislation and the Federal legislation was established in what you describe as the crisis in the first decade of the century and in sort of duplicating it in the provincial field we have, in fact, throughout this compulsory conciliation, got a machinery that is away out of date. Is that valid?

PROFESSOR WOODS: I would not say it was out of date; I would say it was designed to meet a crisis and we are not now operating in that crises. Whether it is valid or not where you are not living in a constant crisis such as existed in 1907 or during the war, is another matter. It was originally conceived in 1907 after the coal strike of 1906 and as you may recall in those days of jurisdiction between the provinces and the Federal Government on Labour matters was not purely established and this came out of the famous Toronto case and resulted in diminished Federal

jurisdiction. Then during the Second World War under the War Measures Act the whole problem was practically brought under Federal jurisdiction again. A series of orders in Council more or less replaced the I.D.I. Act but contained the same principle and worked awfully close to certification procedure; that was a kind of strike vote which is practically the same as certification. Then in 1943 they set up this Committee to decide what to do and at that time the decision was reached to pass the Industrial and Investigation Act to replace the old I.D.I. Act but that was not passed until 1948. And then the P.C. General 3 was passed in 1944 and it established the two procedures; one technique coming from the Canadian West of compulsory conciliation and the other, the American technique of certification and the provinces then imitated that.

MR. MacDONALD: If your compulsory arbitration was an Act the main purpose of which was to get recognition are we not long past that necessity at the present day?

PROFESSOR WOODS: This is my comment in answer to that: There are others who disagree, I think Professor Logan disagrees with me and he has a couple of pages in his book to that effect, but I really feel that is the case and the research I did around 1907 clearly demonstrates

that. There is the unequivocal evidence of Mackenzie King who even went so far as to say, the essence of the Act was designed, before they put in this proposition, for the delay of the strike. The compulsory Board came first. Then he said he realized it would never go through Parliament in that form; he consulted the Labour leaders and he said if they would make some gesture to public opinion, public interest, in other words if they would accept the delay of the strike it probably would go through Parliament and he said quite clearly, we did that in order to get Parliament to pass the Act and when he was asked, what about a union who strikes in that period he practically said, we never meant to take that seriously. I think it is very clearly evidence of his thinking at the time the purpose of the Act was to get collective bargaining working.

MR. WREN: He was a pioneer, was he?

PROFESSOR WOODS: Yes. He took some of his ideas from New Zealand.

MR. WREN: I mean in Canada.

PROFESSOR WOODS: Yes.

MR. MacDONALD: Mr. Chairman, may I ask Professor Woods some few questions on some other aspects of the Act.

PROFESSOR WOODS: If you will allow me the privilege of refusing to answer where I am not certain.

THE CHAIRMAN: Certainly, you have that privilege.

MR. MacDONALD: Before we get off beyond your brief there is one added comment on which I would like a little further clarification. You have spelled out what you describe the accommodative role and the normative role of the Conciliation Board. Do you feel a Board appointed the way the Conciliation Board is appointed should ever tackle what you call the normative role which brings in other standards and terms?

PROFESSOR WOODS: I think it is consistent with my recommendation there should be retention of the Board in those critical cases. You may recall I said in this set-up the Board should not be required to conciliate; they are now dealing with a public interest issue rather than merely an issue of the department. In that case I should say the legislature should give some guidance to Boards set up that way by the authority of the Lieutenant-Governor in Council as to what should be their standards of judgment. In that case they become merely a fact-finding Board and the operation for them might be quite different than what it is at the present time. They might even find that they

have to have a little research done.

MR. MacDONALD: One of the comments made in a British periodical was the absence of people at the bargaining table. In other words, the impact on the economy as a whole. You say the result of the decision may not be a factor for consideration but I think in the long run it is desirable.

PROFESSOR WOODS: I think we are a little inconsistent. If two parties through conciliation device sign an agreement the public is not the least bit interested and there are thousands of agreements signed in precisely that fashion but because they cannot settle there is suddenly public interest in the terms of the agreement.

MR. MacDONALD: In reallocating the use of your Board to a few cases that would become sort of exceptional they might become . pattern-making cases.

PROFESSOR WOODS: That might very well be.

MR. MacDONALD: The whole public consideration would be taken into account as well as the interest of both parties.

PROFESSOR WOODS: I think it is possible that this would necessitate only a relatively small number of Boards and they would

carry a great deal more weight and it would be more difficult for the parties not to accept, even if it was voluntary, even if they did not have to if it was not a compulsory arbitration, it would be more difficult for the parties not to accept the terms or something very close to them if you restricted the use of such Boards to those cases where there was public interest in the results of the bargaining in addition to merely preserving from or preventing a strike. The trouble with our Boards now is that we have worked them to death and nobody pays much attention to them.

MR. MacDONALD: They have been given too active a role.

PROFESSOR WOODS: We have used them so much, there are so many of them, I do not think there is too much respect for them by the parties or by the public as well.

MR. MACAULAY: What about the settling of a strike? I do not suppose anybody settles a strike or a dispute except the parties themselves, but they are brought together. If settlements are made while conciliation is going on and set forth and those have been attributed to the efforts of the Conciliation Officer. How many settlements do you think are attributable to the normative reports of the Conciliation Officer other than in a compulsory arbitration?

PROFESSOR WOODS: One of the difficulties is to tell whether it is normative or accommodative. You rarely find a case where the Chairman's acts are purely normative. I know one I can quote. I suppose there are quite a few others but most Chairmen, I think, are to a certain extent searching, listening carefully to the parties and trying to find out what is really important to them and thus would merely be additional bargaining weight because when you have a case before you with presumably 20 issues it may be that only two or three of those are important. In some cases, through conciliation devices, I have found if you can break one or two things they would not be too greatly concerned with all the rest of the issues they claim are in dispute. They can be cleaned up in half an hour.

MR. MYERS: Do you know of any jurisdictions that have this simplified conciliation procedure?

2 PROFESSOR WOODS: The closest to that, I think, is Saskatchewan but I am not too familiar with the details of that but they do not have the same degree of compulsion that they do in the other provinces.

MR. MACAULAY: I think the normative report of the Board where the Board reports what in its opinion should be the settlement, even if it is a disagreement, a minority report, it seems to

me that where that happens it is a normative report. The other kind of report would be a simple statement, we could not bring them together.

PROFESSOR WOODS: In the normal sense I would agree if you write a report with recommendations in it it is presumably based on some standardization but I think, realistically, very often the standard is the acceptability. They write a report that looks precisely the same; in fairness these workers should have this and in fairness to the employer they should not have this kind of security. For instance, the Board may recommend 7 cents an hour increase and if they went into it very thoroughly, in their judgment they **think** it should be 6 cents or 11 cents but they recommend 7 cents because they think that would probably bring about a settlement. While in a formal definition I think you are quite right in practical terms very often I know, this has often been proved in my own case, the Board will write a report that they think will produce a settlement.

MR. MACAULAY: If they were left just in an accommodative role there would be no need for them to report anything except they could not bring them together.

PROFESSOR WOODS: In a majority of cases they might be able to do so but the illustration I gave you this morning about the industrial

manager who asked me to write a report and not try to bring about an agreement. In that case the real problem in accommodation was between the industrial manager and his own principal rather than between him and the union. He said to me, I know we have to pay an increase this year but my president has made up his mind he is not going to pay an increase and if we do not we will have a strike.

MR. MACAULAY: The president might, if you report the other way or not at all, he might have held to the view of the Board.

PROFESSOR WOODS: Another illustration, this is not a Board of my own, the three members came to a unanimous decision that the increase should be, say, 7 cents an hour. This was the major issue, a wage issue. The union nominee on the Board asked the company nominee on the Board not to sign the report and to put in a minority report for no increase. He said, if you do that I can sell it to them but if you do not they will take my head off for bringing in only a 7 cent increase. In a sense that is an accommodative arrangement.

MR. METZLER: Mr. Chairman, this also serves to bring out how extremely difficult it is to give criterion standards to a Board of Conciliation whereby they can operate in respect

of a dispute. There are no established criteria; I do not think you can have them. I do not think legislation could establish them.

MR. MYERS: If a Board presents a report is the report brought to the attention of the members or the union later?

PROFESSOR WOODS: That depends on the union and the management.

MR. MYERS: Do you know of any cases where union representatives have withheld the conciliator's report?

PROFESSOR WOODS: I do not know of any specific cases but probably it does happen. I know, not very long ago, an industrial relations manager whom I know quite well was telling me he thought that was going to happen or else a distorted version would be given and was wondering whether the Report should be reproduced and a copy given to each member.

MR. MYERS: What would be wrong with the incorporation in our Act to say where there is a report by a conciliator or a conciliation board that it must be brought to the attention of the membership and that a secret vote should be taken ~~after~~ the report has been disclosed to everybody.

PROFESSOR WOODS: You have raised two issues there, sir. I think the only objection

to the first part of it being brought to their attention would be purely administrative and a matter of cost which I think are purely minor matters. The second one, I think, is more fundamental because I think it would affect the basis of collective bargaining because they would think they could do better by a board report. In this case, I think, the employer would be strictly inclined not to bargain.

MR. MYERS: It seems to me we want to protect the worker, not the union nor the employer. How can we protect the worker unless the worker knows everything that is going on and can we do anything to see that such is the case.

PROFESSOR WOODS: If I may refer for a moment to your suggestion of the secret vote, in Saskatchewan and Alberta they have something like it and I have rather serious misgivings as to the effect. I would suspect the employer would hold out and make practically no offer. The Board report would show that there was no offer or very little offer and then it is put to a vote and it sort of undercuts the authority or influence of the union leaders.

MR. WREN: It would be used as another weapon.

PROFESSOR WOODS: Yes, I think it would be used as a weapon. If I might add another

point: Presumably, if you had a secret vote it would have to be conducted, probably, by a government agency or department. I am told that in the West they do have something like this and there is a tendency if a union should go on strike for them to say, it is a government-approved strike because the government conducted the vote and the vote went against the company and, therefore, it is a government-approved strike. Maybe that is all right.

MR. MacDONALD: The kind of board report that would get wide circulation is the kind of report which recommends that management give less than they were willing to give originally.

PROFESSOR WOODS: I have heard of those cases.

MR. MYERS: We have had before us a brief of the Seventh-day Adventist who said, in their opinion, it is wrong to prohibit any man from working and, therefore, a closed shop was wrong just from the moral point of view and there ought to be a right to work provision written into the Act and they told us, further, that is a feeling that is rather strong in the United States. Indiana, which is quite an industrial city, now has a right to work provision and 16 States have also adopted that and the trend seems to be that way. I would

like to know what you have to say about that:

I would like to ask if you will express an opinion.

PROFESSOR WOODS: My first opinion, if I have any claim to expertese it is in industrial relations and not with morals.

MR. MYERS: They say that this is the trend.

PROFESSOR WOODS: I suppose this would be attacked on certain security measure, such as a union shop and so on. You have really put me on the spot.

THE CHAIRMAN: Professor Woods, you are not obliged to answer.

PROFESSOR WOODS: I would not mind making an observation and this is not necessarily an observation with any finality at all because I can see a case formed against you. I did think, in this country, we had worked out a fairly practical solution to the problem in the Rand formula which requires the payment of dues but not membership and I think I recall seeing a press report that the Seventh-Day Adventist would be prepared to contribute.

MR. MYERS: And was it not the Seventh-day Adventist who produced a submission why it condoned such a provision but that is not general. It has been suggested by some people there ought to be a secret ballot on

all certifications and the implication was that often undue influence was brought on employees to sign their cards and the unions have told us, too, when the requested number of cards had been obtained by the union to permit certification there would be a counter-provision put in signed by the very same people saying we do not want to belong and this representation from the unions said that an employer could tell whether a man was in favour, they could get guidance from his voting because if he did not vote it would be a vote against the union. Could this whole matter not be easily adjusted by simply having a secret vote on all applications for certification and count only the votes which were cast for or against the proposition. Do you see anything wrong in that?

PROFESSOR WOODS: I do not see anything wrong in principle because it removes the decision made by the individual worker from the rather confusing sentiment of pressures and so on but, on the other hand, it would probably create a fairly heavy administrative load to do it.

MR. MYERS: Let us assume that is the answer and the principle involved. Going on then to another matter, a union representative came before us and said often matters are referred to arbitration and the arbitrators give an award in favour of an employee and the employer

forthwith said I will have nothing to do with it. He takes no action to implement the award which leaves the employee in a position where he can apply for leave to prosecute and prosecution is the only remedy. Now, it seems to me if somebody does not okay the award of an arbitrator the person who is damnified ought to be able to sue for damages and that then brings us to the point who should sue and it seems to me the union, since it negotiates the contracts and represents the employee, should be the one to sue and that presents the further problem how can an unincorporated organization sue and why should not unions be incorporated?

PROFESSOR WOODS: I know this problem; I do not know how prevalent it is in Ontario but I know of cases in Quebec where an employer has refused to accept the award of an arbitrator and the union is really unable to do anything about it because the legal process was too long and difficult. Last year, for some months, I was on a commission in the Phillipines and ran into precisely this problem. I made a recommendation there which they may or may not accept. I said it would be an Unfair Labour Practice if the parties refused to abide or refused to accept the machinery of their own collective agreement. In other words, if a party refused to take the case to arbitration

where they had agreed to take all cases not settled to arbitration that would be an Unfair Practice or having gone to arbitration they refused to implement the award that would also be an Unfair Labour Practice. If that is feasible or not I do not know. Then the next question, what would be the method of enforcement? In the Ontario Act there is now this provision for an inquiry commission on Unfair Practices.

MR. METZLER: The inquiry commission is limited to cases of persons discriminated against or otherwise dealt with contrary to the Labour Relations Act but I am of the opinion, as Professor Woods is saying, that our Act is sufficient in its present language to permit action being taken by asking for leave to prosecute.

MR. MYERS: We do not want to prosecute; we want to sue for damages.

MR. METZLER: We have here a situation where one or the other side has obtained an award and the final decision of the Board shall be final and binding on all parties in the bargaining unit as the collective agreement has stated. Seeing that you are dealing with a voluntary organization in a special field, the field of labour relations, you have to say to yourself, how are you going to

permit this thing to be done because the Rights of Labour Act prevents their union from being sued or to sue.

MR. MYERS: Is that a Federal statute?

MR. METZLER: It is an Ontario statute.

MR. MYERS: Why should we have such a provision; why should we not be able to sue? I would like to just know why?

THE CHAIRMAN: Because the legislators have said they cannot be.

MR. METZLER: I think we discussed this in part some days ago and the question arose as to the decision of the British Trade Union Act about 50 years ago, I think 1906, the Trade Union Act brought down a specific provision, namely: To grant the protection of no suit. I have referred to the setting up of the Labour Relations system in the Province of Ontario and this goes back to the collective bargaining act as well as the present legislation. You cannot bring suit under the present provision of the law so you are left with extraordinary remedies created by the Labour Relations Act. At the last session of the legislature we made a change in the legislation to provide that trade unions, through an officer, could actually institute prosecution. There is some doubt as to whether

or not they would care to do that and so you are left with your rather extraordinary remedies under the Labour Relations Act which, in this instance, is asking for leave to prosecute; or take the matter before the Labour Relations Board and there thrash it out.

MR. MYERS: The Committee, of course, can make **its** own recommendations to change legislation.

MR. MacDONALD: So the basic problem or the present form of procedure of these extraordinary steps of having to sue is so ineffective that usually it is not resorted to.

PROFESSOR WOODS: Mr. Chairman, may I come back to this: We have the legal set-up which protects a union from being sued. I think there is another basic reason and that is the union is not the same sort of thing as a corporation. A corporation has all authority structure and every person in the management is subject to the authority of somebody above them but in a union, certainly in theory, it is democratic and the union officers have no control over members or very little so if members, either individually or jointly, behave in a fashion which is contrary to the intention of the law it is very difficult to hold the institution which does not hold authority over them to enforce responsibility.

That is the difficulty. I admit there are problems of union irresponsibility and I do not know what the answer is.

MR. MYERS: It was suggested by one body that came before us the onus should be on the union and where there is a breach of the peace or damage to property the person, presumably, acting with the authority of the union would make the union responsible. If an unlawful act were done by somebody acting under direction of the union it could be peculiarly within the knowledge of the union and it would be quite impossible to prove and the onus could be easily denied by simply swearing no authority was given for the act and why should that not be a decided provision in the act.

PROFESSOR WOODS: I confess I do not know.

MR. YAREMKO: We have a situation here where no one is really satisfied with the enforcement procedures. The union is not satisfied when there is no implementation of an arbitration award to have to apply for leave to prosecute which is a long drawn-out affair and does not achieve what it should. On the other hand, management feels that they, in turn, have to resort to the extraordinary remedy of applying for leave to prosecute someone because of some breach and they

are not happy about that. There was a suggestion from one side that the unions have a right to enforce the arbitration award by the economic weapon of a strike and management says, we would like to enforce our position not by applying for leave to prosecute but by the right to sue. We have the situation where both parties appear to be dissatisfied with the enforcement procedure but each party has a different view as to what substitution should be made.

PROFESSOR WOODS: I believe under the American law the union can strike in those circumstances but the difficulty is that this may result in disguised strikes or disguised objections. The strike may be, ostensibly, because of an Unfair Labour Practice or management's refusal to accept the arbitration award or something like that but the strike may really be for other reasons, other purposes. I do not think it is a satisfactory solution to the problem.

MR. MacDONALD: The proposal of failure to live up to some section of the arbitration award being described as an Unfair Labour Practice does not solve anything in our studies here, it just brings us around to the Unfair Labour Practices which are just as difficult.

PROFESSOR WOODS: I was thinking, especially after Mr. Metzler explained how far the Inquiry Commission could go, that there might be additional authority given by the Minister to the Inquiry Commission.

MR. MacDONALD: If he did give them additional authority, what would that be?

PROFESSOR WOODS: That would give you a much quicker resolution of the problem.

MR. MYERS: It seems to me a lot of unions have false opinions as to the authority of the men on picket duty. I know it is a very difficult problem.

PROFESSOR WOODS: Do you know of any jurisdiction, provincial jurisdiction, that attempts to define picket lines as to what they may or may not do or is it only the Criminal Code that does that?

PROFESSOR WOODS: In practice, in Quebec, the police simply tell a union how many pickets they can put around a certain place and that is it.

MR. MYERS: Do you think it would improve a situation that might exist if there is a bad strike if the legislature wrote into the Act the definition of what is lawful picketing or is it only going to confuse the issue more?

PROFESSOR WOODS: I do not know

whether it is a matter of confusing it; I do not know whether it is enforceable.

MR. MYERS: A lot of men think it is enforceable. There was a strike at a sewage disposal plant in Kitchener and they turned raw sewage into the Grand River which went past my Town of Galt and I thought I would like to see what was happening. There were a couple of fellows who would not let me through and they rushed after me with cars and it was quite a rumpus. Those fellows thought they had the right to stop me from passing that line. It was very annoying in a way and why should the legislature not write a definition of picketing into the act. It would get a great deal of publicity and people would know they cannot throw stones and break peoples legs and still be within the law which some of them think they can do.

PROFESSOR WOODS: I am afraid I cannot comment.

MR. MYERS: You have never run into that situation?

PROFESSOR WOODS: I have heard of it.

MR. MYERS: Have you heard a definition of lawful picketing in legislation?

PROFESSOR WOODS: It is implicit in all law; peaceful picketing.

MR. MYERS: That is not definite.

MR. YAREMKO: We had the proposition put

to us yesterday that where a collective agreement lasts longer than the statutory period, 18 months or two years, there are provisions for, say, a wageholder. We heard the proposition put to us that conciliation officers should remain available to the parties; compulsion conciliation should take place. Have you any views to express, Professor Woods?

PROFESSOR WOODS: Certainly, in logic, I cannot see any reason why they should not. In a sense when they exercise their right in reopening, if there is a dispute and if the conciliation officer can be of any help, I do not see why he should not be in there; I do not think he should be denied. Personally, I do not like wage reopenings. I find they are the hardest disputes to settle because as a rule they are a one-issue dispute and there is nothing to bargain with. Because the contract says that you cannot bargain for the duration of the contract you cannot trade that for something else. You have only one issue to deal with and it is all give on the part of the employer and take on the part of the union; the employer can gain nothing and the union can lose nothing. I do prefer an escalator clause to cover that sort of thing rather than having this hybrid kind of thing in which you have a contract and have not got a contract. However, I do not see any reason

why the conciliator should not be used. I think the whole practice should be described.

MR. YAREMKO: I gather the intent behind the proposal was that they wanted compulsory conciliation to enter the picture if they did not achieve a settlement of the dispute within the period of time laid down without compulsory conciliation then they should resort to the economic weapon prior to the expiration of the collective agreement itself.

PROFESSOR WOODS: As you know, I am opposed to the compulsory board in any case so I cannot go along with that.

MR. MacDONALD: May I ask you a question on a very hot issue; injunction. The suggestion was made that one way of eliminating an injunction being used as a sort of obstructionist tactic rather than as a legitimate legal procedure was that permission should be secured from the Labour Relations Board for the right to institute an injunction just as you have to, in the Ontario Act, get permission for the right to sue or prosecute. Have you any comment on the general question of injunction?

PROFESSOR WOODS: No, I have not.

MR. MYERS: I think that would be a matter of jurisdiction, Mr. MacDonald.

THE CHAIRMAN: Gentlemen, let us discuss that in Committee.

MR. WALSH: Mr. Chairman, may I ask one question of Professor Woods?

THE CHAIRMAN: Yes, of course.

MR. WALSH: Professor Woods, do you disagree here with the doing away of conciliation? That is not the law at the present time in Quebec?

PROFESSOR WOODS: No, the Quebec law is the same as yours. The wording is different but the intent is the same.

MR. WALSH: Do you know of any other provinces in the Dominion?

PROFESSOR WOODS: With the exception of Saskatchewan, where it is a little different.

MR. WREN: Are your theories, Professor Woods, associated with any marked degree to a so-called voluntary organization?

PROFESSOR WOODS: I suppose they are.

MR. WREN: Have you stated those?

PROFESSOR WOODS: Not recently and not adequately. Basic to the whole thing is the object of producing more maturity on the part of Labour and Management by forcing more responsibility on them and by taking away from them these techniques that can be used in a manipulating fashion to move the dispute on in time and so on. In other words, to force Collective bargaining to work or allow it

to work. Secondly, and this is a hope at least, if that were done the parties would more readily develop machinery and techniques of their own to resolve their disputes.

MR. WREN: Of necessity?

PROFESSOR WOODS: Of necessity. In other words, the thing would become private government in the place of civil government.

THE CHAIRMAN: Is there anything further, gentlemen? If not, Professor Woods, may I, as Chairman of the Committee, extend my own personal thanks to you for going to the time, trouble and expense of coming here and preparing this very, very interesting brief which, I am sure, is going to cause the Committee a lot of thought and we will most certainly give it our serious consideration. The manner in which you have presented your brief and exposed yourself to questioning by the members of this Committee, I can assure you, is very much appreciated.

Gentlemen, that concludes our work today. On Tuesday, October 22nd, we are to hear from the Hamilton Building and Construction Trades Council, the Toronto Building and Construction Trades Council so, gentlemen, if you will kindly be here on time we will proceed with the important work of this Committee.

---Whereupon this hearing adjourned at 3.00 p.m.
to be resumed at 11.00 a.m. Tuesday, October 22, 1957.

LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,
Queen's Park, Toronto, Ontario

Tuesday,
October 22, 1957

JAMES A. MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH, Q.C.	Committee Counsel

MM

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Albert Wren
John Yaremko
Robert Macaulay

APPEARANCES:

Mr. J. B. Metzler	Deputy Minister of Labour
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Professor Harold Logan	Adviser
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CHANGES IN HANSARD REPORT

October 1, 2, 3

<u>Page</u>	<u>Line</u>	<u>Changes</u>
343	6 & 10	<u>Ontario</u> Labour Congress to read <u>Canadian</u> Labour Congress
361	1	Word <u>Communist</u> to read <u>Congress</u>
930	4	Mr. <u>Boothroyd</u> to read Mr. <u>Fell</u>
932	7,10,18	"
934	2,12,17	"

Appearances (Continued)THE HAMILTON BUILDING AND
CONSTRUCTION TRADES COUNCIL

Mr. E. Whitelock	President
Mr. L. Richardson	Secretary-Treasurer
Mr. T. Taylor	
Mr. M. Barr	
Mr. W. Schmelzle	
Mr. R. Gall	
Mr. J. White	
Mr. N. Powell	
Mr. W. McDowell	
Mr. J. McQuarrie	

THE TORONTO BUILDING TRADES COUNCIL

Mr. W. H. Nicols	President
Mr. W. G. Hardy	Secretary-Treasurer
Mr. A. Hull	Business Manager
Mr. (Scotty) Linus	Business Manager, Local 506
Mr. D. Hamilton	Secretary-Treasurer, Ontario Federation of Labour
Mr. H. Ingham	Business manager, Local 793 of the International Union of Operating Engineers

THE CHAIRMAN: Gentlemen, the Chair sees a quorum and we will commence this meeting. This morning we are to hear from The Hamilton Building and Construction Trades Council and the Toronto Building Trades Council. I presume these two briefs are to be presented together?

MR. RICHARDSON: No, one following the other.

THE CHAIRMAN: Who will be presenting the brief?

MR. RICHARDSON: There will be three of us, we will take turns.

---(Brief is read)

THE CHAIRMAN: There is one portion of the brief "Conciliation Procedure" which has not been read. That is at the bottom of page 2.

MR. RICHARDSON: That leads into the brief so I won't read it.

THE CHAIRMAN: Just for the record the reporter might want to make a note. On the bottom of page 2 "Conciliation Procedure" and ending on page 3, that part was not read.

MR. RICHARDSON: To expedite the Committee's labours, I am quite sure The Toronto Building Trades Council brief -- their problems are much similar to ours, and we have spoken with them and we would like them to read their brief at this time and then have

the general questions on the two briefs.

THE CHAIRMAN: If it meets the wishes of the Committee we will hear from The Toronto Building Trades Council. For the Toronto Building Trades Council we have the president, Mr. M. H. Nicols; Mr. W. G. Hardy, secretary-treasurer, and Mr. A. Hull, business manager. Who will be presenting the brief?

MR. HULL: I will read the brief.

---(Mr. Hull reads brief)

THE CHAIRMAN: Now, then, gentlemen, we will proceed to deal with these briefs, and we are dealing with them at the same time because they are pretty well the same. It seems to me the objective of one union is the same as the other, and that they should be exempt from the provisions of the Ontario Labour Relations Act.

Are there any questions arising out of page 1 ?

MR. WREN: Page 1 of the Hamilton brief under Certification, I wonder if the gentleman from Hamilton could give me a few specific cases of delays of application for certification, because if you were out of the Act you would not come under certification.

MR. RICHARDSON: Yes, we have many delays in the applications for certification. Now,

in the building industry we must all realize that the employer may have many projects in operation at one time ---

THE CHAIRMAN: I think the question was to give us some specific instances.

MR. RICHARDSON: Yes, we have a case before the Board at the present time of a contractor in St. Catharines where application for certification was made last June. Subsequently after we had our hearing we were certified by the Board, we received the certificate, and a week or so later I received a letter that there had been an error made on the part of the Board in counting the number of eligible employees so there was a continuation of the hearing. That was possibly about two weeks from the date I received that letter that we came before the Board, and up to the present time we still have had no clarification of whether we are or are not certified.

Now, the problem arises there that the employees have joined the union in good faith wishing us to represent them, and possibly now the jobs have been completed and they have gone, gone out into the province discontented with the union of their choice, and they have received no benefit.

As you know, in the application for certification according to the Act, a payment of \$1 must be made by the person joining the union, and a counter-signed receipt, the application card, must be :

submitted to the Board as evidence.

THE CHAIRMAN: Are there any other instances?

MR. RICHARDSON: We have another one in Niagara Falls at the present time; it is over a year and we are still waiting for word as to whether we are certified or not.

THE CHAIRMAN: The whole idea here being that a project, a building project, once started is usually completed before certification occurs?

MR. RICHARDSON: That is right, sir.

MR. WREN: Well, another question along that line: in an area where a new project is being set up, say a new building, a new road job or something, how many employees in the field go to your union or your associated unions and try to determine what wage and working conditions are?

MR. RICHARDSON: Very, very few. I do not know whether you are familiar with the set-up of building trades unions, but we negotiated a contract with an employers' group, usually known as the builders exchange construction association, and that establishes the rate in the area, the geographical area. I think Mr. Wren's question was, how many employees who are not members of the association coming into that area to work seek out the union for information regarding the wages and working conditions, and the answer is, it is practically nil. They are figuring on these chaps --

the same basis, presumably on the same basis as the employers who are signatories on a trades agreement. They go in there successful in their tendering because of one fact, they are paying lower wage rates than an employer who is in with various unions.

MR. WREN: We are dealing with Toronto and Hamilton. Is there any great difference between the wages paid to workmen in unions which have negotiated agreements and as between those who are in no union at all -- is there any great difference?

MR. RICHARDSON: I can tell you this, that there has been as high as 60 cents, 70 cents and 80 cents an hour difference in wages paid by fair employers and those who were unfair.

MR. WREN: What sort of trade would that be?

MR. RICHARDSON: Specific cases I can recall are carpenters, sheet metal workers, electricians, plumbers, practically all of them, including labourers.

MR. WREN: And the difference would be that high?

MR. RICHARDSON: That is right.

MR. MacDONALD: What potential of the workers in your union are organized?

MR. RICHARDSON: I would say, speaking of Hamilton, eighty per cent as a rough estimate.

MR. MacDONALD: Only twenty per cent ---

MR. RICHARDSON: About 20 per cent working for contractors who are not signatories to the various agreements.

MR. WREN: What attitude do your unions take, for instance, where let us say a subcontractor comes in on a job with non-union men; what follows that as far as the union is concerned?

MR. RICHARDSON: That is the crux of the whole thing. For example, we have a project in operation and there are eight trades that are going to be involved in the construction of this particular building, and seven of those trades are organized and have collective agreements; the other one coming in on the project is not organized. You say, "Well, they can attempt to organize," but it has been proven here quite conclusively that if we were to organize the men, take the application to the Board to be certified and go through the procedures of the Act, that particular trade would have completed their work and have left the project.

Now, the other group, possibly running into hundreds of men, the seven who are organized, take a very dim view of a subcontractor coming on a job with unorganized workers and paying below the rates that are established for similar workers on that project.

We will take for an example labourers

going onto a project for a subcontractor to install a sewer system, or possibly cleaning up on a job, or something like that, and the other group of labourers are organized and receive rates around \$1.55 or up. The others come on the job and are getting paid \$1.20 or \$1.35 -- even as low as 90 cents.

MR. JACKSON: Would you mind telling me why they would take a dim view of that? I assume they do not have any reduction in their wages?

MR. RICHARDSON: The employees that are organized?

MR. JACKSON: The organized employees do not have a reduction?

MR. RICHARDSON: No, it is possible a subcontractor ---

MR. JACKSON: Why do they take a dim view of it?

MR. RICHARDSON: The main reason might be the unorganized workers working on the contract for a lot less wages would be breaking down the conditions that the organized labourers have established.

MR. WREN: Would you not agree too that possibly it would develop an unfair area of competition between two contractors if one is paying 65 cents an hour less than his competitor; his competitor is penalized?

MR. RICHARDSON: It is unfair competition.

MR. WREN: His competitor is not using union labour.

MR. RICHARDSON: Maybe in the same line of work there are 80 per cent of the organized firms and they are tendering on a job at the wage rates that are established in a collective agreement, but this other fellow gets the job. Of course he gets it on the basis of putting in a lower tender.

MR. MACAULAY: What building is this you are talking about?

MR. RICHARDSON: Which building? There is no specific building.

MR. MACAULAY: I understand you to say they were working on a building in which eight trades were certified and one was not. Which building is that?

MR. RICHARDSON: I gave you that as an example; there is no specific building.

THE CHAIRMAN: If there was a building ---

MR. MACAULAY: I follow you.

MR. SPOONER: I was going to ask this question: You say about 80 per cent of the trades are organized. What percentage of the contractors are in the Builders Exchange which you deal with? Do you have just general contractors or do you take in all lines of contractors?

MR. RICHARDSON: Well, to answer that

question, there are four basic trades that deal directly with the general contractor. They are the engineers, the carpenters, the bricklayers and the labourers. In the framework of the Builders Exchange they have sections for electrical contractors, plumbing and pipefitting contractors, and that group deals with that respective union, the electricians union or the bricklayers or the plumbers or sheet metal workers and so on.

MR. SPOONER: What percentage would be in the Builders Exchange of the contractors?

MR. RICHARDSON: Well, it varies from area to area.

MR. SPOONER: Let us say in Hamilton?

MR. RICHARDSON: In Hamilton there is 90 per cent, I would say.

MR. HULL: In Toronto there is about one-third.

MR. SPOONER: About one-third only in the Toronto Builders Exchange?

MR. HULL: Yes.

MR. MacDONALD: In the Toronto area what percentage of the potential workers are in the union? Thirty per cent of the contractors -- what percentage of their workers would you estimate are under contract?

MR. HULL: I would like to clarify this if I may, first. When I answered the question I

do not know whether I made it clear or not, but outside of those that are in the Builders Exchange, two-thirds are under signed agreements direct with the Council in Toronto. One-third belong to the Exchange and the other two-thirds have a direct agreement with the Council as set up under the Act at the present time.

MR. SPOONER: That would mean then in the Toronto area almost one hundred per cent of the contractors would be organized, either through the Builders Exchange or directly?

MR. HULL: If you take the general contractors as such I would say up around ninety per cent.

MR. SPOONER: Then it is about the same as Hamilton?

MR. HULL: We are set up a little differently. They have about ninety per cent in the Exchange and we have about thirty per cent in the Exchange and about seventy per cent under signed agreements directly with us.

MR. MacDONALD: What percentage of the workers would that include as compared to the eighty per cent in Hamilton?

MR. HULL: About the same.

MR. WREN: Well, you believe that these difficulties in setting up certification or attempting to set up certification -- you want to get out from

under the Act. What other procedure could you suggest?

MR. HULL: Well, in Toronto it is no problem as far as we are concerned because we go out and organize the general contractor and deal with him on a one hundred per cent basis. Once he signs an agreement with us he takes the trades that are affiliated and takes the men from there, or in cases where he has been affiliated we take the men into the unions.

MR. MACAULAY: You talk of taking the building trades out from under the conditions of the Labour Relations Act. Have you any observations of how the certification procedure could be improved upon specifically?

MR. HULL: As far as we are concerned we do not have that problem in Toronto.

MR. MACAULAY: What about in Hamilton?

MR. RICHARDSON: Well, I feel that the certification procedure could be speeded up.

MR. MACAULAY: By doing what?

MR. RICHARDSON: Well, one suggestion might be, as soon as the application is deposited with the Board they would send out an officer from the Board to check the records of the employer and give us immediate certification if it was found that the union had the required percentage, and if not to have a representation vote taken. The same thing

if we file a case with the Board for interference by an employer in the formation of a trade union.

MR. MYERS: When you say ---

MR. MACAULAY: Just a minute, please.

What do you mean the same way if somebody filed an interference?

MR. RICHARDSON: Well, they send a commissioner out and he finds out where the trouble lies. The union meets with him at the premises of the employer and they have a hearing.

MR. MACAULAY: By interfering do you mean notice of intervention?

MR. RICHARDSON: No, the employer interfering with the men endeavouring to get a petition.

MR. MACAULAY: An unfair practice?

MR. RICHARDSON: Yes.

MR. MACAULAY: But generally your observations are that other than being relieved from the obligations of the Act as to certification, it is too slow; you want whatever steps should be taken to speed it up?

MR. RICHARDSON: Speed certification.

MR. MACAULAY: And you do not care what steps they are as long as they will speed it up and you have outlined the ones that could not hurt you?

MR. MacDONALD: Mr. Chairman, may I ask a question relating to that? You suggest you want to throw the Act out altogether. Are you in fact

implying now if you can get a speedier process --
let me ask this question.

MR. RICHARDSON: There are many other
aspects of the Act we are not too happy with.

MR. MacDONALD: Let me ask you this, then:
are there no particular rights or privileges under
the Labour Relations Act generally that you can
benefit from that would make it desirable for you to
stay under it if you can get a speedier process for
conciliation certification?

MR. RICHARDSON: I think the parts that
we object to far outweigh the few benefits we
derive under the Act.

MR. MACAULAY: Well, are those parts of
the Act that you object to, are you objecting to
them basically because they are not applicable to
your type of union or because you simply object to
being governed by them?

MR. RICHARDSON: We object because they
are not applicable to the building construction
trades.

MR. MACAULAY: Certification is too slow
according to you and the project is over and the
people have dispersed, and there one can instantly
see why it may be said that that aspect of the Act is
not properly applicable to your type of union. Now,
before ranging too far afield, are the same kind of
objections open in the balance of the Act? Just

name three other **specific** objections which you have so I can see whether you are **objecting** to it because they are there or because your kind of union is not applicable to them.

MR. RICHARDSON: In our brief we have (1) certification; (2) conciliation and (3) the right to picket.

MR. MACAULAY: All right. Those are ---

MR. RICHARDSON: Those are three specific reasons why we do not feel ---

MR. MACAULAY: Are there any other objections you have to the Act other than that?

MR. RICHARDSON: No.

MR. MacDONALD: Do you want the Act to not apply in any aspect to the building trades?

MR. RICHARDSON: That is right.

MR. MYERS: And you take a chance on being able to get fair wages for your members?

MR. YAREMKO: Just dealing with certification, is the reason behind that that the building trades feel they have progressed sufficiently along the road to being established as bargaining agencies that there really is no necessity, as perhaps there was ten or fifteen years ago, for a procedure by which they could be designated as bargaining agents?

MR. HULL: We did not ask for it; that was wished on us -- we did not ask for the Act. It was wished on us.

MR. YAREMKO: I see. Could it be that the particular building trades have been there so long that they were established as bargaining agencies long before this Act came into effect, so that those particular types of trades did not need an Act to establish them as bargaining agents?

MR. HULL: That is right. We were looking after it quite well.

THE CHAIRMAN: You mean you were brought into the Act against your own wishes?

MR. HULL: Yes, and we protested at that time.

MR. WREN: Well, tell me this, in that instance what opposition do you run into from employers when you apply for certification? Is there any discrimination against your workers when you apply for certification?

MR. RICHARDSON: Oh, definitely.

MR. WREN: Could you enlarge on that?

MR. RICHARDSON: An employer in the construction industry has much greater opportunity to get rid of his employees once he has found they have joined a union. As I said before, he has many projects in operation so he can move them from one project to another nearing completion and they will be laid off and will be out of his employ.

MR. MacDONALD: But application for certification is not compulsory. Over fifty per

cent of trades in this province, we were told, are in unions that have never been certified.

MR. RICHARDSON: That is right.

MR. HULL: We have signed several hundred here in Toronto and they have never once asked for certification, so as far as we are concerned the thing is just out the window.

MR. MacDONALD: But is your request for exemption from under the Act because of the fact that even though you do not seek certification the employer can enforce other clauses of the Act creating restrictions for you?

MR. HULL: We want to be free to manage our own affairs in the fashion we see best fit to do so. We have a good relationship with our employers. There is not one who has signed up with the building trades council that we cannot go in and sit down in his office and talk to him. That is the relationship that we have, and we can give no thanks to the Labour Relations Act for bringing that to us because we have not used it.

MR. MacDONALD: The only thing is, we have a brief, the toughest, roughest brief we have ---

MR. HULL: You can keep that one, as far as we are concerned.

MR. JACKSON: I was looking at this brief and I noticed that the construction associations recommend in the summary of recommendations the

repeal of the rights of the Labour Act giving unions civil status, the right to sue in civil courts and making it possible to sue them in their own name, treating them as business institutions and to be able to found actions on agreements. ; Repealing the rights of the Labour Act is saying something similar to what you are. Would you agree with that statement that they have set out here -- that recommendation?

MR. HULL: Would we agree with what?

MR. JACKSON: That recommendation. Would you go that far.

THE CHAIRMAN: They could be made legal entities, the right to sue and that sort of thing.

MR. HULL: Well, up until the time that we read that brief we did not know they were hostile with us in any way or form. That was the first time we found out.

MR. MYERS: But you are not afraid of the union people working for a certain wage and the contractor employing people for less than that?

MR. HULL: Oh, no.

MR. WREN: What you are saying, as I understand it, is despite the fact that you did apparently certify your agreement by the fact that you signed an agreement, that immediately brings you under the Act for conciliation procedure?

MR. HULL: That is right.

MR. YAREMKO: It is even more basic than that. If you have not established a bargaining agency you cannot strike at any time. Is that not so, Mr. Metzler, an unorganized group of men cannot strike?

MR. METZLER: They cannot strike legally. They have to comply with the Act.

MR. YAREMKO: Only an agency which has been certified has the right to strike. If the certification procedure were not applicable to you then you would have the right to make your own way?

MR. HULL: That is right.

MR. WREN: Do you suggest, Mr. Metzler, a union which has negotiated a voluntary agreement has not the right to strike?

MR. METZLER: Mr. Yaremko's position was that a group of employees who organized into a union and had no collective agreement.

MR. MACAULAY: Oh, no, that was not the point at all. He said if you signed an agreement ---

MR. YAREMKO: No, no.

THE CHAIRMAN: Let us find out what we are talking about. He says what you say he is not talking about is not what he is talking about.

MR. YAREMKO: Mr. Metzler, the people who have no agreement, who have not been certified as a bargaining agency, can they strike?

MR. METZLER: I would have to answer that

by posing a hypothetical question. Would it be a strike within the meaning of the Labour Relations Act? I have doubts that it would be. I mean, there is nothing to prevent people from walking out and saying, "I am through, I am not going to work for you any longer." Now, would you consider that a strike? The Labour Relations Act is one document speaking in respect to the relationship that is established as a result of certification and collective bargaining.

THE CHAIRMAN: It only applies to those who have an agreement.

MR. YAREMKO: I think Mr. Hull knows what I am trying to state. He would prefer that they did not have to be certified?

MR. METZLER: That is right.

MR. YAREMKO: And the reason for not wanting to be certified is so they can have their own methods in order to bring that about.

THE CHAIRMAN: Could you tell us this ---

MR. YAREMKO: Which includes the right of stoppage of work?

MR. HULL: Right.

THE CHAIRMAN: In the event you make an agreement, you are without the Act, what would your procedure be?

MR. HULL: Well, our procedure would be to take the necessary action to protect whatever

unions would be involved in the programme. We would be prepared to do that.

THE CHAIRMAN: You would be prepared to do what?

MR. HULL: It would depend on the circumstances.

THE CHAIRMAN: Supposing you wanted an agreement and could not get one?

MR. HULL: Well, there could be a fishing trip or a holiday.

THE CHAIRMAN: In other words, you would go on strike or a stoppage of work?

MR. MacDONALD: Could there be organizational picketing?

MR. HULL: It would depend on the circumstances.

THE CHAIRMAN: Would there be a stoppage of work without any penalty or an unfair practice?

MR. HULL: I do not know, I am not a lawyer.

MR. MacDONALD: You would stop work and go fishing?

MR. HULL: That is right.

MR. MACAULAY: Do you mean, Mr. Hull, the unions that would be on the job would stop work or the ---

THE CHAIRMAN: There is no union.

MR. MACAULAY: You say the situation

occurred so that there are four trades, three of whom are certified and one of which is not?

THE CHAIRMAN: But this is without any certification I am talking about.

MR. MACAULAY: All right, then. Advancing one step further: if there are four trades, three of whom are certified and one is not, and you are trying to get an agreement, with reference to the fourth I presume one way you could assist your negotiations for the fourth is to pull off the first three; is it not so?

MR. HULL: It could be.

MR. MACAULAY: Or the other is to pull off the fourth. In either case it brings it to a stop?

MR. YAREMKO: But if the Act were amended to absent you, then what would happen would be you would just certify yourselves?

MR. HULL: We would do exactly what we did for forty-five years, carry on the business in our own fashion, and I do not think anybody got hurt.

MR. MacDONALD: Isn't the point we have to face this, that under the Act now if this happened and you went to the point of a strike, that strike under the Act is an illegal strike and it is not a union position, because the same thing happens under Section 78. If a municipality takes employees out under Section 78 and they strike, I think

Professor Finkelman said it is beyond the Act. Whether it is illegal or not, I am not commenting; that is beyond my jurisdiction.

MR. HULL: It is beyond the Act.

MR. WREN: Your point is, despite the fact you are able to negotiate voluntary agreements or you have good relations with the Labour Exchange you are still required in conciliation to have compulsion?

MR. HULL: Yes, according to the Act we have to go through it.

THE CHAIRMAN: In view of these good relations with the Builders Exchange, they are satisfied you should be taken out of the Act?

MR. HULL: Not according to their brief.

MR. MacDONALD: I want to go back to this question. You say you have the most happy relations with employers. You go into their office and sit down and talk about anything, and yet we get this kind of brief.

MR. HULL: I do not think that comes specifically from the Toronto Builders Exchange. I am speaking specifically about the Toronto Builders Exchange.

MR. MacDONALD: They endorsed it.

MR. HULL: Maybe so, but it would be only one part of their brief.

MR. HARDY: I think possibly the best

proof of our relations with the Builders Exchange in Toronto would be our record as to strikes. I would say possibly in the last -- well, go back twenty-five years, and I do not think there would have been a dozen of any duration at all.

MR. WREN: Was this plumbers' group affiliated with you?

MR. HARDY: Yes, they would be included in the dozen strikes.

MR. MYERS: What do the employers think of this brief?

MR. HULL: We have not consulted them; they did not consult us and we did not consult with them.

THE CHAIRMAN: So your relations are not that good?

MR. HULL: That specific thing we have not talked to them about.

MR. YAREMKO: Mr. Hull, how many times did your Council attempt to become certified?

MR. HULL: As a Council?

MR. YAREMKO: Your contention is you were ---

MR. HULL: We did not say that. We never mentioned certification in our brief.

MR. YAREMKO: That is the Hamilton brief. I will frame my question this way: the delays in certification are so long that at the time you do

become certified the work has been completed. Could you tell me, taking the last five years, how many instances did you apply for certification and discover that by the time you were certified the project was completed? Would there be a dozen or would there be ten dozen? What are the statistics?

MR. RICHARDSON: I could not give you the statistics for all trades. I represent the labourers in Hamilton and I have only been there for three years and during that three years every contractor we have signed originally through the application for certification. In all of the group that we have signed at the present time, they all originated when I first went into Hamilton. There was no labourers' union organized and we had to first approach the contractors for a voluntary recognition and it was refused, so we made various applications to the Board for individual projects of contractors in the Hamilton area, and they were refused on the basis that we had to have 55 per cent of the employers group of labourers. We were successful in getting two contractors of the Exchange certified, and, believe me, it took better than a year to accomplish that, and it was only luck that we got these two contractors because of the reduction in their working force that were on their projects -- eighty per cent of their employees -- and we made that application and subsequently

we were certified. Now, the major contractors of the employers group certified had led to a collective agreement with possibly about eight or nine of the contractors, not all of them, but this past year we were successful in getting the rest of them.

Now, up to that time for the first two years of that original agreement eight of the contractors were organized under an agreement, and the other dozen were not. Where was the competition? To follow that up, the length of time that it takes to get certification and then we approached the employees of the other companies and they were aware of the fact of the length of time taken to get the original contractor signed and certified; they knew that, and we went through that long process of certification and they were gone and they were also afraid of it.

MR. YAREMKO: Was not your basic problem then in organizing the employees rather than the delays caused by the certification procedure?

MR. RICHARDSON: Certification procedure was the reason for installing the fear into the employees to become organized. If a man is receiving one dollar an hour and he knows if he joins the union and they are successful in signing an agreement for \$1.50, there is no question -- they do not want it. There is some reason, and the reason in the majority of cases is it takes too long to go

through the process of certification.

I must elaborate on this a little more. We are not only dealing with the City of Hamilton or the City of Toronto. We go out into the outlying areas and organize and establish agreements in various places like St. Catharines, Niagara Falls, Georgetown, and these people we feel have a right to have an organization representing them to get them a decent wage and a decent standard of living. They are becoming more aware of this Act, of the long procedure you must go through. They know all about this. There is no question about it, that the job will be completed..

We are not only talking about getting out from under only because of certification.

MR. YAREMKO: We were going to come to the other part. We were dealing with the certification end of it, not from the time you start but the certification procedure itself. What happens in this instance, where having applied for certification, by the time you are certified the job was completed -- not the contract negotiated, but the job was completed by the time you were certified after the time you had applied for certification?

MR. RICHARDSON: There was only one that I can recall and that was in the City of Niagara Falls. It was a sewer project and we made our application and it was two or three weeks before the

hearing and by the time we received the certificate the job was completed.

MR. MACAULAY: How long was it before you received a certificate after you made your application?

MR. RICHARDSON: I would say around ten days.

MR. MACAULAY: Ten days, so you applied and ten days later you were certified?

MR. YAREMKO: And by that time the job was completed, so actually it is not delay in certification that is the trouble. It is the delay from the time of the application to certification, to the date that you have an agreement signed?

MR. RICHARDSON: That is one phase of it but the other basis of the objection is that the workers themselves are becoming more aware of the fact that it does take a considerable time to be certified.

MR. MACAULAY: And therefore they resist joining the unions?

MR. RICHARDSON: That is right because they are afraid by the time the reply is received by the employer, he knows they have signed up for a union ---

MR. MACAULAY: What do they have to lose? They might be fired before they are certified.

MR. RICHARDSON: Not actually fired. It

is not a case where we could charge them with unfair practices, but they are moved to a project nearing completion and they are taken off the payroll earlier, and this is becoming more prevalent now in the last two or three years.

MR. YAREMKO: Mr. Hull, this particular set-up does not affect you?

MR. HULL: We do not proceed along those lines at all.

MR. YAREMKO: It may be that ten years from today the Hamilton group will be in the same position as you?

MR. HULL: We hope so; earlier than that, we hope.

MR. YAREMKO: But the reason I imagine that this is no longer a problem with you is ---

MR. HULL: It has never been a problem.

MR. MACAULAY: They do not go for certification ---

THE CHAIRMAN: Perhaps we should send Mr. Hull over to Hamilton.

MR. RICHARDSON: There is a reason why we cannot do these things in Hamilton that you do in Toronto, and I imagine you are aware of that.

MR. MACAULAY: What are some of them; what are the reasons?

MR. RICHARDSON: Well, speaking of the -- the labour force there -- when we go out to organize

an employer and he gets wind we are organizing, discussing with the men, he has his own methods for discouraging them.

MR. MACAULAY: Is that not open to an employer herein Toronto also?

MR. RICHARDSON: Not so directly as it is in Hamilton. We have a problem there that I do not wish to elaborate on at this time because we may get into a discussion when we have our round robin with the employers in the building trades in Hamilton.

MR. MacDONALD: Would it be accurate to say you have not yet been able to build up quite as warm a relationship with the employers as is the case in Toronto?

MR. RICHARDSON: That is correct, yes. Now, that does not apply to all the unions that are affiliated with the building trades council. I am speaking more of our own specific case, of our union, rather than as a whole.

MR. MacDONALD: Would it be your impression that the Hamilton Construction Association and Builders Exchange share the views expressed here?

MR. RICHARDSON: I could not say.

THE CHAIRMAN: Has it been intimated to you that they do?

MR. RICHARDSON: Well, I do not believe ---

THE CHAIRMAN: Have you something to show -- I do not think you should put a witness in the

position of asking him what his belief is unless he knows, because that is valueless.

MR. MacDONALD: Well, let me come back to Mr. Hull. Have you evidence that the Builders Exchange in Toronto does not go along with this brief? Earlier you intimated you did not think they necessarily felt as tough about this whole thing as it is in the brief.

MR. HULL: We have had our relationship throughout the years, and that is the reason I made that statement.

THE CHAIRMAN: You have had no strikes of any importance?

MR. HULL: Ninety per cent of the problems between the Builders Exchange and the building trades are ironed out by telephone.

THE CHAIRMAN: Surely it is not the job of this Committee to disturb this situation if it exists.

MR. MacDONALD: Am I not able to clarify things in my own mind?

THE CHAIRMAN: If there is some basis for it, but this gentleman says he has no basis for it. It is his belief, but he has not given us any reason why he believes it.

MR. MacDONALD: Let me proceed with my question. Mr. Hull indicated earlier that he did not think from his relationship with the Builders

Exchange here that the Builders Exchange would go along with this tough brief.

THE CHAIRMAN: Whether it is tough, lean, hard or soft it does not matter. It is the actual situation that exists in Mr. Hull's experience. Surely we should not disturb it.

MR. RICHARDSON: To clarify the one point. Mr. MacDonald brought up, we endeavour to keep the highest relationships with our employers. I would not want to go on record as being disturbing that.

MR. MYERS: Would you make a contract with an employer to cover a job that ---

THE CHAIRMAN: The Chair recognizes Mr. Macaulay.

MR. MACAULAY: Thank you, Mr. Chairman; I will hand it over to Mr. Yaremko.

MR. YAREMKO: I am assuming now that your problem is not with the skilled trades, it is with the labourers?

MR. RICHARDSON: That is correct.

MR. YAREMKO: And in respect to carpenters, plumbers and other skilled trades, your position is comparable to that of Mr. Hull, is it?

MR. RICHARDSON: Not in all cases, no.

MR. YAREMKO: But more so than the labourers' end of it?

MR. RICHARDSON: That is right.

MR. YAREMKO: So most of your problems

are dealing with the labour trade?

MR. RICHARDSON: Under this certification that is correct, sir.

MR. MACAULAY: Is that not partially true because the labouring force involved is more itinerant and the trained skilled groups stay put to a greater degree?

MR. RICHARDSON: Oh, definitely.

MR. MACAULAY: They may stay in one town whereas your labouring force may move from place to place; is that not true?

MR. MacDONALD: Your skilled trades may be a great deal ---

THE CHAIRMAN: Order, please.

MR. MACAULAY: On a point of order.

THE CHAIRMAN: Mr. MacDonald was putting a question.

MR. MACAULAY: I was putting a question and my friend jumps in and says that is not true, and contradicts the witness.

MR. MacDONALD: I am asking the witness to elaborate ---

MR. MACAULAY: You are telling the witness it is not true. Just for the sake of courtesy, let me finish with the witness.

MR. MacDONALD: The amiability of this Committee is suddenly degenerating. Mr. Macaulay has jumped in on many occasions when I was asking

questions.

THE CHAIRMAN: Whether it is degenerating or not, I think Mr. Macaulay is correct in these circumstances. Now, Mr. Macaulay, would you kindly proceed?

MR. MACAULAY: I do not want to suggest something to you which is not accurate. I was asking you the questions and my friend is quite properly in a position to find out from you whether it is right or wrong.

The point I want to establish is this: It is the labour group with which you are most concerned and one of the problems is that it moves more than the skilled trades do?

MR. RICHARDSON: You mean within the geographical area?

MR. MACAULAY: Well, from job to job, from one area to another; is that so or not?

MR. RICHARDSON: That is correct to this point. A labourer works for a contractor on a small job and finds out that he can gain employment elsewhere that is going to last for six to seven months, and naturally he is going to endeavour to get that. Usually a contractor retains a force of permanent men. Even if he has a project in operation he may move them off to the yard.

MR. MACAULAY: It is usually a nucleus?

MR. RICHARDSON: Yes, of permanent

employees, and as the business grows he will obtain a bigger force.

THE CHAIRMAN: Now, Mr. MacDonald, if you have anything to add?

MR. MacDONALD: I want to ask a question, not add anything or I will get into trouble. Mr. Chairman, is the fact that the labouring group has not got as strong a bargaining power, because they have not got the skill, a factor in the picture?

MR. RICHARDSON: They have the same bargaining powers as the other trades.

MR. MacDONALD: They have as much?

MR. RICHARDSON: Yes.

MR. MacDONALD: As a new union would you say they have to establish bargaining power equal to that of an older union?

MR. RICHARDSON: Well, the power may not be as great but in the initial stages it would ---

MR. MacDONALD: To that extent they have a lesser bargaining power?

MR. RICHARDSON: Well, they have established themselves, they have just as much bargaining power as in the other trades.

MR. MacDONALD: I was trying to satisfy myself if it was the itinerant nature of the workers that was the problem so much as it was the relatively new group being organized. Perhaps I am wrong -- to the extent they have not as great a skill to

bargain with their position was not as strong ---

MR. RICHARDSON: As I said a little while ago, three years ago that may have been the case. They were not aware of all the aspects of the Labour Relations Act, but they are becoming more aware of it and ---

MR. LINUS: Mr. Chairman, being a labour representative could I say a few words on the situation?

THE CHAIRMAN: You certainly can.

MR. LINUS: Regarding the labourers' bargaining power, they have equal bargaining power with anybody in Ontario. The Labourers' Union throughout Ontario is fast becoming one of the biggest organizations in Ontario today. The conducting of business with employees and employers has been in many cases better than the old established organizations.

Regarding migrating from one place to another, there is just as much migrating from one job to another by other trades as there is with labourers. Labourers are first on the job and they are last off the job. Therefore, I would say that any migrating from one part of the province to the other, a labourer does it even less than a tradesman. For one thing, a labourer cannot afford to go all over the province, whereas a man with \$2 or \$2.50 or \$3 can pick up and go any time he wants.

THE CHAIRMAN: I know Mr. MacDonald will

be relieved to know about that.

MR. MacDONALD: I have met carpenters at the lake who come from London and Toronto.

MR. MYERS: What do you think of the exclusion of labourers from the Act?

MR. LINUS: In my experience in the building trades in the last five years as a business representative, I do honestly believe it is going to be to the benefit of the employer and the employee to get out from under the Act.

THE CHAIRMAN: Shall we proceed to page 3, the right to picket?

MR. YAREMKO: I want to ask one more question, a point of information.

THE CHAIRMAN: Surely we have exhausted this.

MR. YAREMKO: It is a point of information. Is it still common or prevalent, this idea of contract labour, where a man has his labour force and he provides another employer with his labourers that are on his payroll. He has nothing else except one hundred or two hundred men on his payroll engaged as labourers and he brings them into a construction job with some other firm and the company pays him a lump sum and he in turn pays the labourers. Is that still common?

MR. RICHARDSON: It may happen in cases, but not as a rule.

THE CHAIRMAN: Shall we proceed to page 3, the right to picket?

MR. JACKSON: Mr. Chairman, this is the first time we have had the question brought up on Section 59, that Section 59 takes away the right to picket -- one brief says it takes it away and one says it restricts it -- but the Toronto brief says it takes it away. Are you making that statement because of the peculiarities of the Trade Council?

MR. RICHARDSON: That is right.

MR. JACKSON: I do not see where that ---

MR. RICHARDSON: The right to picket, if we find that there are unorganized workers working on a project we feel that we should have the right to place a form of picket on that project without any fear of any prosecution -- an informative picket informing the public and the people working that they are there.

MR. JACKSON: You have that right now.

THE CHAIRMAN: Have you ever been prosecuted?

MR. HULL: Oh, we have.

MR. RICHARDSON: Our people have.

THE CHAIRMAN: An injunction or prosecution?

MR. HULL: We have before the Board. I cannot just tell you how many times, but I know that the officers of the Council and myself were before

the Board quite a number of times in an attempt to prosecute us, an attempt to get leave to prosecute and also declare it was an illegal strike.

THE CHAIRMAN: Was it ever declared an illegal strike or were you ever prosecuted for picketing? You have been before the Board but have you ever been prosecuted?

MR. HULL: In one case one of our affiliated unions, one of their officers, consent to prosecute was granted, and in one case that I can remember there was an illegal strike, a declaration of illegal strike.

THE CHAIRMAN: Since the Act came into force?

MR. HULL: Within the last three years. We finally settled it before it went ahead. However, the consent was given.

MR. JACKSON: There is picketing going on in London, Ontario, now, on jobs.

MR. HULL: There is right in Toronto here, too.

MR. JACKSON: You say that is illegal?

MR. HULL: Well, I don't know. I would have to know -- you see, you have to look at all different aspects. I would have to know the circumstances in London, and I do not know the circumstances. In the second place, who am I to judge whether it is legal or illegal?

MR. JACKSON: What I am trying to get at is, you say you cannot picket and you have already said you do picket. Now, which is it? You say Section 59 says you cannot and now you have told me you are picketing yourself in Toronto.

MR. HULL: We are liable to prosecution for picketing but that does not stop us from picketing.

THE CHAIRMAN: Mr. Hull, in case there is any misunderstanding, an injunction is not a prosecution; it is a civil process for an interim period in which the parties can satisfy the Court that it is not a proper case for an injunction. It is not a prosecution.

MR. RICHARDSON: It is a very costly thing as far as the unions are concerned.

MR. HARDY: It deprives us of a picket line for possibly the length of the job. It means we have been prosecuted to the extent we have not got our workers on that particular job. This could involve wages of many thousands of dollars.

MR. WREN: That is persecution, not prosecution.

MR. HARDY: Well, it is costing us money.

THE CHAIRMAN: What you are suggesting here is the right to picket should not be done away with by means of an injunction?

MR. YAREMKO: Do we not meet your basic

suggestion that you should be taken away from the Act if you have a project where seven out of eight trades have agreements and the eighth is not successful in obtaining an agreement, and they go out on strike. It is the eighth group that goes out on strike, and they set up a picket line and the other seven of them have agreements, and to carry them out they should not cross the picket line, and naturally the difficulty arises if the Act did not apply to you then although you had collective agreements you could participate in a stoppage of work and picketing without even having the possibility of an injunction being put against you, or prosecution, because you would not be doing anything wrong, you would not be contravening any Act. Is there no way by which this eighth group could reach a collective agreement without forcing the other seven to break their collective agreements?

MR. HULL: I don't know.

MR. YAREMKO: Is the only solution to take you out of the Act?

MR. HULL: I do not know whether we could reach a solution. No one seems to have reached it so far. The only action we go on is the time, if we do take action, to make it effective.

THE CHAIRMAN: In other words, what you say is, "If you do not do it we will take the other seven off"?

MR. HULL: No, we do not tell them, we do it.

THE CHAIRMAN: Hit them over the head?

MR. YAREMKO: So in effect to achieve the ultimate purpose you find yourselves in the position where you have to perform the agreement that you have entered into?

MR. HULL: The easiest, the fastest, the least time lost by anybody is the most direct action we can take.

MR. YAREMKO: It unfortunately happens that most of the time it is illegal.

MR. HULL: All of the time. You are left with the right to prosecute and all the legal means under the Act is thrown if you or the contractor can get relief from the action that is taken. It is their choice really to the contractor that we are trying to straighten out.

MR. JACKSON: Do you include in your definition the fact that you should not cross the line; is that included in your definition?

MR. HULL: No, no, we are talking about straight administration.

MR. MACAULAY: Mr. Hull, I may be under a misapprehension of the law, but we have counsel here and he can advise us, but is it not correct, Mr. Walsh, that at common law the right of an injunction, quite apart from the Labour Relations Act, in

the event of illegal picketing ---

MR. WALSH: That is what I conceive from reading the law.

MR. MACAULAY: Therefore, taking Section 59 out of the Act, or taking the Act out, would not stop an injunction against you for picketing in certain circumstances at common law?

MR. HULL: It would leave us in a position where we would only have one problem to deal with instead of many. Instead of the contractor being able to get all those forms down to the Labour Relations Board and fill them out and get us all in a turmoil, we would be in a position where we know where we are going.

MR. MACAULAY: I just want to deal with what appears to be a misapprehension that might follow from this Act and might follow from Section 59. My understanding is that an injunction can issue in a picketing matter in any event.

MR. HULL: That is right.

MR. YAREMKO: You may still be liable for an injunction for an illegal act, but you would not be liable for a prosecution or any other effect coming from being in breach of an agreement.

MR. HULL: You would be in this position, where we would not be in so much turmoil. The Act at the present time, as we pointed out in our brief, has the whole industry in turmoil. The

more it is applied the more turmoil it is putting us in because you take one employer, he will do something, and the next employer will ride on his back and do something more and cause more turmoil, and we do not want to fight, but when it comes down to the point where everything is upset it has to be done. If we fight with everybody we would not have enough money or men to picket in the country so we do not want to fight but we have to do something to show these people we mean business, and we want to be in a position where we can use that if we have to.

MR. MYERS: Your only remedy for what might be called an abuse by employers is a strike or a picketing. Now, then, it has been suggested by some other submissions that the power to strike can be delegated to the employees, to a small group, and the small group itself would have great power. I was just playing with the idea of this: should there be a secret vote by membership of the union before there is a strike. Would you agree with that?

MR. HULL: Well, not in every case. There are times when the organization leaves certain business with their officers to deal with the situation and in most cases your officers are instructed by secret ballot or told whether to take certain action. They are not asked to take it, but lots of times they are instructed to take it.

MR. MYERS: I would hesitate to do anything

to concentrate undue power in any small group.

MR. HULL: It is not what we want; we want to be in a position to take out if we have to.

MR. WREN: I think you often find instances where union officers are instructed by the membership to do something which the officers themselves think might not be right but you are obliged to do it because the majority of your members instruct you to do it.

MR. HULL: That is right.

MR. YAREMKO: Is there any instance of a project in which there would be no union, any kind of collective agreement -- is it conceivable to have a major project where the whole working force would not be covered by any kind of agreement?

MR. HULL: It could be so. Usually there is one or two trades that fit in there, but it could happen.

MR. YAREMKO: One or two that could not be organized?

MR. HULL: No, one or two that are organized and the others would not be.

MR. YAREMKO: Is it conceivable to have a major project where no agreement is on?

MR. HULL: It could be. It is unlikely here in Toronto, but it could happen elsewhere.

MR. WREN: Well, the possibility of picketing, what corporation do the trade union group

extend to the employer groups to, let us say, prevent non-union subcontractors' workers coming on a job?

MR. HULL: What cooperation do we get ---

MR. WREN: What cooperation do you offer to prevent trouble developing from non-union staffs coming on the job?

MR. HULL: Usually when a job is being bid on we have a list which is kept up to date, of union subcontractors in the various trades; the employer, if he is not sure, calls the office and checks it.

MR. WREN: You have full information available to him?

MR. HULL: That is right, and if it is some name we do not know we in turn call the local union to make sure whether he is or is not union.

MR. WREN: Would you suggest then he would have no valid excuse for bringing men on the job?

MR. HULL: No valid excuse. He could find out.

MR. HARDY: He could find out very easily from the place where he gets his drawings, generally the Builders Exchange, which does have a list, and certainly is in telephone conversation with our office every day to get the information.

MR. WREN: So, in effect, if he brings

non-union subtrades on the job he is inviting trouble?

MR. HULL: That is right.

MR. YAREMKO: On the bottom of page 3
you make the statement:

"We feel that the information
"being given by a picket that
"the contractor is unfair is
"just and reasonable to protect
"the interests of fair contrac-
"tors ---"

THE CHAIRMAN: This is the Hamilton brief
now.

MR. YAREMKO: I am sorry -- has there
been any -- that is what you are trying to do for
them ---

MR. RICHARDSON: Most definitely, sir.

MR. MacDONALD: I would like to ask a
question here which is to my mind a fundamental
problem that your proposal or your request for ex-
emption from the Act raises. Let us assume for the
moment that this Committee concurred and recommended
that the building trades should be exempt from the Act,
it would either have to be stated or at least acknow-
ledged that you could have direct action, you could
strike and it would be a legal strike, not the rather
fuzzy position at the moment, but whether it is legal
or not legal. How are you going to reconcile that
kind of situation with the rest of the labour movement

of which you are a part? You in effect would be left in the position of being able to move towards a direct economic action as quickly as you wanted. The rest of the labour union would be forced to go through a long procedure before they could take direct action. In other words, our problem as legislators is how you can set up two sets of rules, one for you and one for the rest of them.

MR. HULL: I do not think we have ever quarrelled about the municipal employees; they are out from under the Act in certain cases.

MR. MacDONALD: Yes, but ---

MR. HULL: I do not think we have ever used that as an argument, so why would the other people use us as an argument?

MR. MacDONALD: I am not using the other people as an argument.

MR. HULL: Your question, I think, infers that.

MR. MacDONALD: Suppose that were so, they could say: "One group can go directly, why can't we?"

MR. HULL: But we are different. You take a plant with all the employees in one plant, you can apply different standards than you can to us where we have people, eighteen thousand people, scattered all over the Toronto jurisdiction in bits and pieces. You see, perhaps one man can work for

five employers in two weeks; it is possible. Therefore, we have to have a different set of conditions and a different set-up to handle that situation.

When he goes from one employer to another he will ^{the} receive/same rate of wages and the same conditions from each employer.

MR. YAREMKO: Have you done any research on any other jurisdictions with this problem which you suggest is unique to yourself? Has it been dealt with in a different way from the way it is dealt with in the labour movement in general? Are there any places where there are specific problems in respect to building trades?

MR. HULL: Well, the only thing I can give you is that prior to the Act we worked and worked very well.

MR. MacDONALD: Prior to the Act everybody worked very well to the extent that they existed.

THE CHAIRMAN: What is the condition in the United States?

MR. NICOLS: I would like to make this one statement: previous to the Act, as far as the building construction industry was concerned, there was a voluntary conciliation, and I am speaking of the days of Jim Marsh and McBride. I think those are names that may be familiar to you gentlemen. We went in and they said, "We can't get together; sit down and try to get us together," and that was in the

hungry thirties and we had less trouble then than we do with all this law.

MR. MacDONALD: You think there would be no difficulty in having a different set of rules for you and for the others, but ultimately this is an important problem for the Legislature.

MR. NICOLS: It is our observation that the purpose for conciliation under the Labour Relations Act was set up to be a cooling-off process, but it works in reverse, it creates a hot box as far as a construction man is concerned.

MR. MacDONALD: Well, just a minute. It is one thing to say that -- which I agree with you on -- but it is another thing to say you are going to be out from under the Act, but, I raised the question earlier, would you accept an alternative? There would be different regulations for you but you would still be under the Act and you would not be out altogether?

MR. NICOLS: Well, both sides of the industry would not use the power that you as a Committee might give them. This economic weapon -- industry has seen both extremes and this is one industry that would not abuse that privilege. They are just like man and wife, when a man and wife fight the neighbours do not come in to settle it, they sit down and settle it themselves.

MR. MacDONALD: The legal profession is

called upon sometimes, and they thrive on that sort of thing.

MR. HAMILTON: Mr. Chairman, I think this whole aspect of the trade unions in the City of Toronto in regard to building trade problems are unique and there is conflict between the other parts of the trade unions and the building trades to the degree that the problems are unique.

MR. MACAULAY: The point I was anxious about, and I think Mr. Yaremko, and perhaps Mr. MacDonald, we have the examples of the States. In the United States where they have labour codes, if they exempted building trades -- I am sure the problem in, say, the City of Hamilton and Toronto is not much different from New York or Cleveland, so do you know of any other legislation where there is a labour code even if it is not analogous to this, where the building trades have been exempted from the operations of the Act?

MR. NICOLS: The only thing I can say on that is, going south of the line -- if that is what you are thinking of -- I can say the building trades as such are trying to get from under the Taft-Hartley Act which I think is even worse than ours.

MR. MACAULAY: You cannot help me?

MR. NICOLS: I do not know of any instances.

MR. MACAULAY: The Saskatchewan Act?

MR. NICOLS: No, I do not think so.

MR. INGHAM: Mr. Chairman, in the Province of Quebec, which is not considered to have too good labour relations, the building trades on construction projects do not have to conform with the other rules, as the other people do. As long as you can prove membership then the employer must sit down and bargain with you, and if he refuses then you are entitled to strike.

MR. MacDONALD: What does the proof of membership constitute?

MR. INGHAM: They send around an investigator to check your books to see if these men are members of your union, and you do not have to sit on a Board or anything.

MR. MACAULAY: You do not know about Saskatchewan, though?

MR. INGHAM: No, I do not.

THE CHAIRMAN: Are there any other questions you would like to ask?

MR. MacDONALD: I have a number of questions that arise out of the claims in this other brief, but if we are having what you described as a round robin ---

THE CHAIRMAN: That was suggested and I understand it was agreed upon.

MR. MacDONALD: It may be more appropriate

to raise the sharper differences when both parties are present.

MR. NICOLS: I think it would be better if you got us in one room.

THE CHAIRMAN: My question was, is there anything else that occurs to any member of the Committee that should be asked of these representatives?

MR. METZLER: Mr. Chairman, before you adjourn I would like to refer the members of the Committee to Section 49(2) in respect of a question which was raised earlier by Mr. Yaremko, having to do with the problem of a strike where no collective agreement was in operation. That was specifically dealt with, and I think it might serve to clarify the situation if I were to read that subsection, subsection (2) of Section 49:

"Where no collective agreement
"is in operation, no employee
"shall strike and no employer
"shall lock out an employee un-
"til a trade union has become
"entitled to give and has given
"notice under Section 10 or has
"given notice under Section 38 on
"behalf of the employee to his
"employer, or in the case of a
"notice under Section 38, has
"received such notice, and

"conciliation services have
"been granted and seven days have
"elapsed after the conciliation
"board has reported to the Minis-
"ter or the Ministerhas informed
"the parties that he does not
"deem it advisable to appoint a
"conciliation board."

MR. MacDONALD: In other words, it comes completely under the Act?

MR. METZLER: In other words, any concerted action, which, as a matter of fact, is a strike, would be subject to the provisions of the Act.

MR. MACAULAY: If it were not for the Act, in fact, Mr. Metzler, I would think that the common law would say that it was a conspiracy in restraint of trade.

MR. METZLER: That may be true. Also, the Rights of Labour Act deals with that subject. I will provide you with copies of the Rights of Labour Act.

MR. MACAULAY: Mr. Walsh, is that possible, if this Act did not exist, any concerted action to strike, apart from the rights of labour, which cuts in, this might be considered to be a conspiracy in restraint of trade?

MR. WALSH: I would think so.

MR. MACAULAY: So you see there are two sides to this picture. If you get rid of this Act you may be subject to what has been the common law for a great number of years.

MR. HULL: They take it in there anyway.

MR. HARDY: May I say a word of clarification? In both our briefs it is mainly a protest or objection of the fact that we are living under an Act that we were never particularly happy with and did not wish to come under, but that that Act presents regulations that are so elastic that they work to our detriment in our organizing and also in our negotiations for new agreements. I think that is the whole trouble with the Act. We would rather put ourselves in the position where we would be relieved from the regulations in the Act and take our chance with the civil law, if necessary, because of the long drawn out procedures that we are forced into under the Act.

THE CHAIRMAN: If the procedures were not long and lengthy then you might find some benefit in the Act?

MR. HARDY: No, I want to point out that I do not think we can find any benefit from the Act, but I also realize that we are the same as anybody else, we have to conform to the laws of the country, but I do not think the Act helps us in any way. However, if there is going to be an Act ~~and~~ we have to

live under it, then there certainly should be many improvements, and the main improvement would be that it be speeded up definitely with regard to conciliation. There is nothing we can get out of the Board. There has been no agreement signed by these boards. Many times they have come down with three awards.

MR. MACAULAY: You mean they do not produce anything?

MR. HARDY: Nothing; it is a waste of time and eventually that antagonizes the men in the union.

MR. MacDONALD: We have that suggestion from a number of people that boards should not be compulsory.

MR. HULL: What have you got if the employer offers a nickel and the employees refuse? It is a minority report.

MR. MACAULAY: Take the Board out altogether.

MR. HULL: You are just wasting your time, and instead of it being May it is October, November or December, the snow starts to fly, and we are in a bad position to do anything.

MR. HARDY: Our contention is the small amount of benefit we can get is far outweighed by the damage it does to us.

MR. HULL: I think that covers our

presentation pretty well, and on behalf of the Building Trades Council of Toronto and Hamilton I want to thank you very much for the time you have given us.

THE CHAIRMAN: Thank you, gentlemen, We can adjourn now. I want to thank you very sincerely for the great help you are being to us by giving us the many interesting suggestions that you have given. We are looking forward to this joint meeting and we will give this very serious consideration.

You have in your hands the Minutes of last week, and I would ask you to read them between now and tomorrow when we can consider a motion to adopt them.

----Whereupon the hearing adjourned at 1.10 p.m.
to resume at 11.00 a.m., Wednesday, October 23, 1957.

LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,
Queen's Park, Toronto, Ontario

Wednesday,
October 23, 1957

JAMES A. MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH, Q.C.	Committee Counsel

MEMBERS:	G. E. Jackson
	Donald C. MacDonald
	Ellis P. Morningstar
	Raymond M. Myers
	Arthur J. Reaume
	H. Leslie Rowntree
	J. W. Spooner
	Albert Wren
	John Yaremko
	Robert Macaulay

APPEARANCES:

Mr. J. B. Metzler	Deputy Minister of Labour
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THE ONTARIO HOSPITAL ASSOCIATION

Mr. S.W.Martin	Executive Secretary- Treasurer
Mr. H.G.Dillon	Administrative Assistant
Mr. A.L.Fleming, Q.C.	Solicitor, Ontario Hospital Association
Mr. S.T.Garside	

THE NATIONAL UNION OF PUBLIC
SERVICE EMPLOYEES

Mr. S.A.Little	Director of Organization
Mr. F. Kitchen	Representative

THE CHAIRMAN: Gentlemen, it is now eleven o'clock and I see a quorum. You have had in your hands the Minutes of the meetings of October 8, 9 and 10, and if there are no changes or amendments I would ask for a motion that they be adopted.

MR. JACKSON: I will move that.

THE CHAIRMAN: Moved by Mr. Jackson, seconded by Mr. MacDonald, that the Minutes of October 8, 9 and 10 be adopted. All in favour? Carried.

It has also been called to my attention that there are certain changes to be made in the Hansard report of October 1st, 2nd and 3rd, as follows:

<u>Page</u>	<u>Line</u>	<u>Changes</u>
843	6 & 10	<u>Ontario</u> Labour Congress to read <u>Canadian</u> Labour Congress
861	1	Word <u>Communist</u> to read <u>Congress</u>
930	4	Mr. <u>Boothroyd</u> to read Mr. <u>Fell</u>
932	7,10,18	"
934	2,12,17	"

This morning we are to hear from The Ontario Hospital Association, and they are being represented this morning by Mr. S. W. Martin, Mr. H. G. Dillon, Mr. A. L. Fleming and Mr. S. T. Garside. Who is going to present the brief?

MR. MARTIN: I would like Mr. Dillon to read the brief for us.

THE CHAIRMAN: Will you proceed, Mr. Dillon?

---(Mr. Dillon reads brief)

MR. DILLON: As Exhibit 1 there is a list, and I shall read that if you wish.

THE CHAIRMAN: I do not think it is necessary that you should do that, Mr. Dillon.

Now, gentlemen, this brief is to be dealt with, I take it, in the usual manner, and I would ask the members of the Committee if there are any questions arising out of the topic of General Considerations on pages 1, 2 and 3?

MR. SPOONER: Mr. Chairman, I am interested in knowing what membership in this association, comprising 202 -- how many of these hospitals are municipal general hospitals, how many are operated by religious organizations, as they are in many places in Ontario?

MR. DILLON: Mr. Chairman, if I might reply at least in part to Mr. Spooner: there are 26 of those hospitals which are owned by municipalities. If you will pardon me for a moment I will get another reference here. I have the specific number right here, but it would take some time to actually get out of this the number which are owned by other organizations, but I can get it for you, but I have not it immediately available.

MR. SPOONER: I think it would be of some value to us to have that information.

THE CHAIRMAN: I think so.

MR. MARTIN: We can let the Committee know how many are religious sponsored.

MR. MACAULAY: Out of the 202, 26 are municipally operated?

MR. DILLON: That is right.

MR. YAREMKO: How many municipally operated hospitals are there in the province?

MR. DILLON: Twenty-six, that is the total number.

MR. MACAULAY: They all belong to your Association?

MR. DILLON: That is right.

MR. MACAULAY: Without exception?

MR. DILLON: That is right.

MR. MacDONALD: Do the 202 comprise all the hospitals?

MR. MARTIN: That is right; there are none of the public general or the special hospitals that are not members of the Association. The only distinction I would make there is as between sanitarium and the mental hospitals. We do not have all of the sanitarium and mental hospitals.

MR. MACAULAY: You do not have what?

MR. MARTIN: We do not have all of the sanitarium or any of the mental hospitals or any of the Ontario hospitals which are for the mentally ill.

MR. MACAULAY: Other than that you include everything else?

MR. MARTIN: Yes.

MR. MACAULAY: You would not include the nursing homes?

MR. MARTIN: No.

MR. MYERS: The whole membership concurs in your brief, I take it?

MR. MARTIN: The brief has been, certainly the preparation of it was by circulation to the membership and has been considered and is brought forward with the full endorsement of the executive of the Association.

MR. MYERS: I am interested in knowing whether your membership is in favour unanimously of your right to work part.

MR. MARTIN: I would say yes.

THE CHAIRMAN: Let us wait until we come to that.

MR. MacDONALD: Implicit in the general argument advanced in this section, particularly on page 2, is the suggestion -- I want to be sure I am right in this -- that membership in the union is likely to weaken, if not destroy, the esprit de corps and sense of dedication, as you describe it. Am I right in this: do you believe that membership in a union is actually going to destroy the esprit de corps and sense of dedication of the workers in the hospitals?

MR. MARTIN: I sense this, that it may

not be implicit that it is membership in the union but it is implicit that we have run into difficulties because of the complexity and the types of people that a hospital employs. We do get into disagreement with staffs because of whatever unionization has already taken place in some of the hospitals. I do not make myself too clear there, but what I am getting at is, the hospitals do get into difficulties when they get into unionization of certain staffs where they are reaching out into the areas of people who do not feel they want to be part of a bargaining agent.

MR. MacDONALD: If they do not feel ---

MR. MARTIN: Where certain groups of employees, because of this professional business, and the other types that causes a disruption.

MR. MacDONALD: I want to come to this other type later because it comes up later, but, for example, on this same point, then, at the bottom of page 2 you make reference to this:

"While they must deal with many
"of the factors and pressures
"with which industry and commerce
"are concerned, there can be no
"compromise in their obligation
"to their patients and to the
"community."

Well, for example, firemen and policemen

have a very definite obligation to the community and they have now been organized. They have foregone their right to strike because of the obvious obligation to the community. Is there any greater danger of the hospital employees' obligation to the community being compromised by the union than in the case of the firemen or the policemen?

MR. MACAULAY: Well, not the policemen ---

MR. MARTIN: I have not got what the point is.

MR. MacDONALD: My point is, is there any greater danger of membership in a union compromising the obligations of a community of hospital employees than there is in the instance of policemen or firemen?

MR. MARTIN: I would think, in answer to that question, that the problems that have been brought out in the latter part of our brief, that is the great fear, of course, the inability to provide services at a vital level may be the big problem which is involved, in answer to your question.

MR. MacDONALD: Let me pursue that. Has there ever been an instance yet where you have not been able to -- where service has not been provided?

MR. MARTIN: Where there has been a stoppage?

MR. MacDONALD: Yes.

MR. MARTIN: I cannot say there has, and

we acknowledge that; we acknowledge that the people we have dealt with so far -- that is, the hospitals who have dealt with the organizations have found ---

MR. MacDONALD: In other words, up to now what you are setting up is a straw man and beating him down, but there has been no cutting off of services on the part of ---

MR. MARTIN: No, that is true, Mr. MacDonald, but history has not always -- as you would acknowledge, I am sure -- not always taught the lesson. I qualify my answer by saying the people we deal with now -- there could be others.

MR. MacDONALD: But implicit in your brief are some pretty extreme innovations you are dealing with.

MR. MACAULAY: Where do you see that?

MR. MacDONALD: Throughout.

THE CHAIRMAN: I have not seen that.

MR. MacDONALD: I was expressing my own view.

THE CHAIRMAN: It is always good to change it.

MR. MacDONALD: When we get a little further on in the brief, they want to take all hospitals under Section 78.

THE CHAIRMAN: As long as it is your own view it is understandable.

MR. MacDONALD: I never attempt to express

your views, Mr. Chairman.

THE CHAIRMAN: I hope you never will.
Shall we continue?

MR. YAREMKO: At the bottom of page 2
you make a general statement in which you say:

"However, the growth of trade
"union influence in the hospitals
"of this province is giving rise
"to situations which are in con-
"flict with certain hospital
"standards and objectives."

Can you be more specific?

MR. MARTIN: If clarification is what
you are looking for, I think in the area we are
talking about later on, we have had hospitals appeal-
ing to us in relation to types of unions that certain
people have had to be taken into, and it crosses very
definitely the functional line of hospitalization
which will make for a difficult situation.

MR. MACAULAY: Well, can you give one
specific, concrete example?

MR. MARTIN: Yes, I would be willing to
say this, that where we have had the types of em-
ployees that are mentioned later that get into a
bargaining union, then we have been added to that
such personnel as lab technicians, radiology
technicians, people who are dealing primarily with
the care of the patient. They have become associated

in these unions with the cleaners and so on, more the service staff, and they themselves are taking violent exception to this, and in certain cases it has come to be very difficult to maintain any stable employment in those situations.

MR. MACAULAY: I do not know whether this comes under these first two or three pages, Mr. Chairman -- stop me if it is does not -- but this fact seems inherent in your brief: we have had a lot of evidence by a great many unions to date with reference to the calling out on strike certain unions in the factory, or whatever the entity may be. So in the hospitals the sweepers, elevator men, are called out and they put up pickets.

Now, the case of a factory would be that if anybody crosses that to go in and perform any work inside that area they would considered to be strike breakers. Now, have there ever been any strikes involved in hospitals?

MR. MARTIN: Mr. Garside will answer that, Mr. Chairman.

MR. GARSIDE: Mr. Chairman, I am asked to reply to that question. While it is true to date in Ontario there has been no instance of a strike against a hospital, the fact that a strike could take place leaves a great deal of stress in the eyes of the men with their responsibilities in the public interest in such an area as the treatment of

sickness. You speak of industry. There is an agreement, say, with the steelworkers, the automobile workers, perhaps with the pattern workers, all in the same plant. All have agreements terminating at different dates, and if any one of those groups chose to strike the possibilities are that the other groups would not cross the picket lines.

MR. MACAULAY: That is my point.

MR. GARSIDE: Because the solidarity and working force is such, their training and purpose and recognition of the picket line is such that they will in most cases break a contract and not go through the picket line; not in all cases but in a great majority of cases that is true, and there is a great difficulty in the area of organization, there is a bare possibility that any group could stop the service.

Now, because of that in the State of New York employees in hospitals, educational institutions and other institutions are exempt from the operations of the Act.

MR. MACAULAY: In the State of New York?

MR. GARSIDE: Yes.

MR. MACAULAY: In what other legislative field is that so?

MR. GARSIDE: That is a major situation.

MR. MACAULAY: Is there any other province in Canada?

MR. GARSIDE: No.

MR. MACAULAY: Is there any other state in the United States?

MR. GARSIDE: Not precisely the same way.

MR. MACAULAY: What does the Wagner Act or the Taft-Hartley Act say about hospitals?

MR. GARSIDE: Nothing specific.

MR. MACAULAY: They are not exempt right away?

MR. GARSIDE: No, the only exception is the staff who are operating as employees in a building separate from the main building -- boiler attendants and that kind of thing. Any place where there is educational, charitable or religious work being done they do come under the Act.

MR. MACAULAY: What would you say about being put in the same position as the fire fighters?

MR. GARSIDE: In the case of fire fighters?

MR. MACAULAY: I do not expect you to comment on the fire fighters, but what would your position be as to hospitals being put in the position of being exempt from the Act in the same way that the fire fighters are?

MR. MARTIN: Mr. Chairman, the reason why we could not give you a yes or no answer to that one would be because we have not actually come to take a look at that and get a policy decision as far as hospitals are concerned.

MR. MACAULAY: Would you be prepared to agree that some of your objections would disappear? Well, I would submit to you that many of your objections would disappear if they are pitched forth on the assumption that there could be or would be a strike; that is the thing that confronts you, and apart from who composes the unions and so forth, that would be obviated if you had compulsory arbitration in the same way that municipal employees, for instance, fire fighters, have?

MR. MARTIN: Yes, I think that your own statement is a fair one. What we would be concerned about is whether there were any alternatives in the bargaining process.

MR. MacDONALD: I think the Committee has already been informed by at least one of the unions involved in that field that they would like that available to them.

MR. MARTIN: We were interested in that suggestion.

MR. MacDONALD: It has not been considered by the Ontario Hospital Association?

MR. MARTIN: No, we saw the suggestion from them only a matter of a week ago.

THE CHAIRMAN: In other words, if we were to recommend to the Legislature that hospitals be put in such a position that a strike could not take place do I understand that you would have no

objection to them remaining under the Ontario Labour Relations Act?

MR. MARTIN: Oh, I think that is the biggest problem that we have had brought to our attention, the problem of the actual stoppage of service.

THE CHAIRMAN: And if that problem was solved by prohibiting a strike would you still contend that they should be removed from the other protections and safeguards that they are now under in the Labour Relations Act?

MR. MARTIN: We are not at that page yet, but if we were -- you are talking about Section 78 -- now, I would think that what we are attempting to say there is, we have said that we feel as some hospitals have this privilege it is not fair, particularly where there are two or three unions operating in the same area, that one should have one and another should have another type of operation in this set-up.

THE CHAIRMAN: Could you answer this question categorically yes or no: if you were safeguarded to the point where there could not possibly be a strike among employees of a hospital no matter what they are doing in the hospital, would you be satisfied that they remain under the Ontario Labour Relations Act?

MR. MacDONALD: May I interject here, because it seems to me ~~your~~ question must be in all deference, and the alternative of compulsory arbitration.

THE CHAIRMAN: That is what I am trying to get over. Will you let me do it in my own little, inconsequential way, please? Could you answer that question yes or no?

MR. MARTIN: I think I would have to say No, the way the question is put.

MR. MacDONALD: May I put the question in this way, then? If the alternative of compulsory arbitration, if the right to strike was forbidden but the alternative of compulsory arbitration to settle any existing differences were put in, would you then be in favour of it staying under the Act?

MR. MARTIN: I am not in a position to speak of that. We have no policy on that, but I will say this: we would certainly be taking a long look at it.

MR. MACAULAY: You would be better off, do you agree with that, better off than you are now?

MR. MARTIN: Yes.

MR. MACAULAY: Well, if we can make everybody better off we will be quite happy.

MR. YAREMKO: I think this is a very important point, possibly the most important that might come out of this discussion. Would it be possible to ask the Association to consider this and to return to us on this specific point before our deliberations are concluded?

THE CHAIRMAN: It will not be necessary

for them to return, if they could advise the Secretary -- consider the question and then advise the Secretary as to their position so we would have the benefit of their opinion.

MR. MACAULAY: I would assume that even if they did write they are still not discharging or withdrawing from the other objections which they have of the Act?

THE CHAIRMAN: Oh, no.

MR. MARTIN: That was the reason why I had to say no to a question put here. There are other considerations.

MR. MacDONALD: But if you reply in the affirmative, if your reply to this question is in the affirmative --- ?

MR. MARTIN: Well, I would say that, as I said before, it is removing one of the big obstacles that has been uppermost in the minds of hospital people.

MR. MacDONALD: You see, your solution under Section 78, if I might anticipate to this extent, instead of bringing them all in the possibility of organizing, your solution is -- it would be possible none of them could be organized. That is rather fundamentally different. Now, if you are willing to state under the Act as a guarantee that there will be no strike, there will be compulsory arbitration as an alternative, the only thing I can assume is

you are willing to forego your argument with regard to Section 78?

MR. MARTIN: I would say basically in many of the hospitals there has been no great exception taken to the rights or privileges of their employees to organize.

THE CHAIRMAN: Shall we proceed to ---

MR. WREN: Mr. Chairman, there are one or two questions I would like to ask. Is it not that some of your problems here which you are not specifically stating on pages 1, 2 or 3 -- are they not somewhat economical? You agree they are?

MR. MARTIN: I would agree that we are dealing with a lot of economic problems all the time.

MR. WREN: I have had a good deal of experience on hospital boards and I think what is bothering a lot of hospitals is the fact that non-professional staffs in hospitals, in a great many hospitals, at least, are certainly underpaid people. I think you would agree with me, perhaps, that the fear is if these unions get into the hospitals and bring the standard of wages and working conditions up to what a like skill or trade would demand in other places, then the hospitals would find their registered nurses and other professional staffs would have to be correspondingly increased. The registered nurses, to my mind, as well as other people who are non-professional staff are grossly underpaid.

For instance, if you have to put a stationary fireman up to the equivalent earning of \$300 a month, the nurses would expect from their professional training that they might have to have an increase. Do you think it is a proper approach to suggest that unions be circumvented by the implementation of Section 78, or shall we face the issues in reality as they really are. We had examples, for instance, from one of your union groups that some people were paid as little as \$75 a month, full-time employees. What is your opinion of that?

MR. MARTIN: Mr. Chairman, I do not think I would like to have the inference drawn that it would only be because of union activities that there would be a desire on the part of hospital management to provide adequate and proper wages to the staff. I would have to put the answer in a lot different way; I would have to say to you that because of the events that have taken place in the last year and a half that hospitals themselves have faced up to a big problem. I do not know any other place where business is dictated by statute, that they have to provide a certain kind of service for which they receive about fifty per cent of what it costs to provide it, and then work in an economy framed to meet it.

The boards have been in a position of trying to maintain some balance within this thing,

and still keep the services provided.

MR. WREN: I am fully aware of your problems. What I am getting at is this: how long can we expect as legislators, or citizens, or taxpayers, how long can we expect one class of people, to wit, hospital employees generally, to continue to serve a community, many of them on substandard incomes?

MR. MARTIN: We have been trying to say that we think the time is long past. We know the situation exists and we should have been able to get some relief from certain obligations put on us. There is not really a reason why a person who works in a hospital, per se, should receive from his or her employment less than the people that that hospital is serving in the community.

MR. WREN: Then getting back to this original argument or discussion, would it not be fair to say that if the working force of the hospital were prohibited from strikes, and their differences with the board of management subjected to compulsory arbitration, do you not think the employees themselves might be of a great deal of assistance to you as a board of management in informing the public of working conditions, wages, as they actually are?

In our own case, we might live at the Royal York Hotel during the sessions of the Legislature,

and the hotel quite properly will hand you a rather substantial bill, and you pay it without a qualm. A hospital providing 24-hour care, TLC and all the rest of it, charges perhaps half the amount and everybody screams about it.

I think, getting back to my original statement, the problem is that we cannot continue to permit one section of the community, workers in hospitals and nurses, to be victimized any longer. I think we have to face the fact that we have to deal with them as a segment of the working force in the community.

MR. MACAULAY: Mr. Chairman, something that occurs to me, if you write any kind of a letter what you should bear in mind is, if you do exclude yourself from the Labour Relations Act you would be placed in a position where you could have a strike by anybody for union recognition, so be very careful. You may get rid of one channel and end up with two.

There is another factor, too, that occurs to me, and has for some time, and that is this, that while we are talking about the kind of compulsory arbitration I would like you to bear this in mind -- give some thought to it. In the first place, when firms go to what is in effect compulsory arbitration, there is not much arbitration; there is certainly no conciliation at all. I should think that some

consideration might be given by you people to this Board, and I would like to see you come back again because I think it is important. You might offer some form of conciliation to your employees as prior to compulsory arbitration. I think that might well be done. Then, if you felt that that had some merit, halfway between the hearing on compulsory arbitration somebody might take it out of the hands of the Board and might in the long run have it work better. I do not know, in view of your record of problems that hospitals have had, that it might not work better in some other field, but it could not do any harm and I would like you to give it some thought because I think you should come back, if you can, with some considered view by your directors as to what procedure you should take.

I point it out to you, if you take yourselves out from under the Act you are opening yourselves up to many more strikes than you^{could} have now, with far less protection than you have now.

MR. GARSIDE: I have been asked by Mr. Martin to reply to that question. The reason why there has been the use of Section 78, as I intimated the other day, to preclude the municipalities taking their employees out from under the Act, was because of the fear of strikes for recognition. There is no doubt about that. They are not suggesting that is a possibility. Under the New York

statute they have expressly taken them off because strikes do not take place.

MR. MACAULAY: Could you leave a copy of that legislation with us?

MR. GARSIDE: I have only a summary of it but I can supply you with it.

MR. MacDONALD: May I ask what alternative kind of organization, if any, is there then in New York?

MR. GARSIDE: Well, we have several councils already operating among the nurses in Ontario. We have associations of nurses formed in different hospitals for the purpose of ---

MR. MacDONALD: What about non-professional categories?

MR. GARSIDE: I think we would have to have some kind of employer representation.

MR. MacDONALD: In other words, what is known as a company union -- what is known in the labour field?

MR. GARSIDE: A company-dominated union.

MR. YAREMKO: If I might make a suggestion, as I recall Professor Woods' brief the other day, there may be something that Professor Woods said which might assist us in dealing with a specific situation of this kind. When this group returns I wonder if we could ask them in the meantime to read Professor Woods' brief and say whether there is anything within

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that brief that could be a solution to the problem that we face here.

MR. MARTIN: We have Professor Woods' brief and we are giving it a good long look.

MR. METZLER: Before you pass from the question of right of exclusion from the Labour Relations Act, I would like to ask the question: how many, if there are any, of the 22 hospitals which are under the control of municipalities, have at the present time been removed from the Labour Relations Act by a bylaw or otherwise of a municipality?

MR. MARTIN: Just the one, to our knowledge.

MR. MacDONALD: Which one?

MR. MARTIN: The Victoria Hospital in London.

MR. METZLER: Are the other hospitals maintaining a collective bargaining relationship, or how many of the other hospitals -- the 21 -- have collective bargaining relationships with any trade union?

MR. DILLON: May I answer that question? There are eight hospitals which have union agreements.

THE CHAIRMAN: We cannot hear you.

MR. DILLON: Of the 26 I mentioned before as being the number of municipal hospitals in the province, there are eight with union agreements, and

one of those eight is Victoria Hospital.

THE CHAIRMAN: Page 3, Equity of Rights for Hospital Management in Employee Contacts.

MR. MacDONALD: There is one general question I want to ask in regard to this section. If I understand Mr. Martin correctly, a few moments ago he intimated he did not want to give the Committee the impression that there were not pretty good relationships between hospital management and those unions with which they had collective agreements. If that is the case, then ---

MR. MARTIN: That is speaking broadly and not in any individual situation.

MR. MacDONALD: I was taking it as a broad statement. If that is the case, then, why is the solution or your recommendation in this situation that they all be taken out from under Section 78?

MR. MARTIN: I think the only answer I can give to that is the one I gave earlier, that it seemed that this was -- as there were other attendant problems involved in this situation -- that if certain of the hospitals have the right or have a privilege under the Act, then there would seem to be reasons why the others should have an equal right. We are not asking they be taken out. All we are asking for is that they be given the same privileges.

MR. MacDONALD: I agree with you. There is a certain inequity in the situation in ~~that case~~

hospitals are under Section 78 and others are not, but your solution is they can all avail themselves of Section 78, so you cannot have a hospital under the Act. What about the other side of it? They all take advantage of it, and Section 78 goes out the window.

MR. MARTIN: Well, that is the other side.

MR. MacDONALD: Well, what is your objection to the other side apart from labour problems of who should be included in the bargaining units? That is a separate problem and can be examined as a separate problem. Why cannot you be under the Act in all instances with no rights to exclude these few? As has been pointed out, there is only one that has availed itself of this right.

MR. SPOONER: Would that question not be automatically answered if the Association came back and said they agreed in principle with compulsory arbitration?

MR. MacDONALD: What did Mr. Spooner say?

THE CHAIRMAN: Would not that question be answered if when the Association comes back they should say they automatically agree with compulsory arbitration?

MR. MacDONALD: That was the point of my question, that it seems to me if they agreed that compulsory arbitration as the alternative to the strike, that would wipe out their recommendation with regard

to Section 78.

MR. MYERS: Are not some hospitals operated for profit? I was thinking of Homewood, where I think the shares are on the market. They need not accept a patient so why should they have the same standing as municipal hospitals who must receive everyone?

MR. MARTIN: I can only say that we are appearing here only for the membership of our Association and as such we are talking of the public general hospitals; we are not here to represent private hospitals.

THE CHAIRMAN: We understand that.
Page 4, gentlemen?

MR. WREN: Just one question there. I do not know if you can answer this. Again this question arises on religious convictions ---

THE CHAIRMAN: I am sorry, but if members of the Committee want to talk we will adjourn for a few minutes. It is very difficult to hear, and it is difficult for the people who are appearing to hear the questions being put to them with this continual mumbling. All right, Mr. Wren.

MR. WREN: My question is, again this matter of religious convictions of workers arises on page 4 of your brief, and I am interested to know because I am not a Roman Catholic but a good many of your hospitals are operated by religious orders.

Can anyone tell me is there anything in their religious convictions which precludes the members of that faith from associating themselves with unions?

MR. MARTIN: I could not answer that; I do not know.

THE CHAIRMAN: An awful lot of employees in the unions ---

MR. SPOONER: But I think the nursing sisters in a church organization operating a hospital would be excluded from membership.

THE CHAIRMAN: Of course, they are in a different category.

MR. GARSIDE: There was a case in Manitoba a while ago where the hospital which is a Roman Catholic hospital, with nursing sisters who were nuns and acting as nursing sisters, that they should be included in the union for collective bargaining purposes. Generally speaking, in Ontario I made a **bit of** an examination of this subsequent to my being involved in a case in Windsor, but those who have taken the veil or novitiates who are not belonging to a union can take part in a collective bargaining unit.

THE CHAIRMAN: Sisters who have taken the VOWS ---

MR. MACAULAY: Where would that leave what is called the nursing aids, nursing assistants? Presumably if they are novitiates, they advance to

something further, advance and become nurses and take some kind of indoctrinization or go further in ecclesiastical matters, changing their status, or are they working up to something?

MR. GARSIDE: We are talking of nursing sisters.

MR. MACAULAY: I was wondering about nursing assistants. If you are saying nursing sisters only, again you have to include in a Catholic hospital nursing assistants, if they were undergoing some kind of indoctrinization?

MR. WREN: That is a point I am trying to get clear. When you use the term "nursing sister" is that a nursing sister who has acquired professional nursing standards?

MR. GARSIDE: I will ask Mr. Martin to define the certified nursing assistant, the non-certified nursing assistant and the ward aid.

MR. MARTIN: I think the question here is not so much the nursing assistant. Your suggestion is that some of the people who might be involved in religious orders may not necessarily be registered nurses, and I think we would have to admit that situation would be a factor there, if they should be part of this group.

MR. MACAULAY: Well, it becomes impossible to administer a thing, it seems to me, when you have dozens of different types of people, and I have a

feeling that nursing assistants would have to be treated as a group, and if there were some exemptions -- I just wanted to know if there was.

THE CHAIRMAN: Page 4, Exclusion of the Union Shop from Hospital Collective Bargaining Agreements.

MR. WREN: Do you know of any instances where an employee of a hospital or an applicant for employment has been denied employment because he did not belong to a union?

MR. MARTIN: I cannot give you a specific instance, no.

MR. GARSIDE: May I inquire if you are referring to new employees?

MR. WREN: Well, you say on page 4:

"The term 'union shop' is used
"here to describe the situation
"whereunder a collective bargaining
"agreement an employee must join a
"particular union in order to keep
"his job."

Has that occurred in hospital administration?

MR. GARSIDE: The only facet of the question would be if the people who have been employed for a long time in these institutions, and a union attempts a union shop very strongly, these people who have been in the hospital and have been happy to serve the public -- many of these people are devoted

to the job, the type of work they have chosen -- and if a decision for a union shop goes against their personal conviction, it removes them from the working force.

MR. WREN: Has that happened?

MR. GARSIDE: They do it themselves.

MR. MACAULAY: Has it happened?

MR. GARSIDE: I think you would find situations -- you would have to get from people why they resign.

MR. MacDONALD: Can you tell me how many instances of union shops and how many instances of closed shops there are in practice?

MR. GARSIDE: At the present time in Ontario there are very few.

MR. MACAULAY: Very few what?

MR. GARSIDE: Union or closed shops in hospitals.

MR. MACAULAY: Are there any?

MR. GARSIDE: Yes, there are. The statistics in The Labour Gazette which cover the union shop in the sense in which a union membership pay compulsory dues, but in the case of the Dominion The Labour Gazette states, on 1167, of October, 1955, 75 per cent of them have some form of check-off and many of them are compulsory. They do not give for the Dominion the number of union shops, so-called, in hospitals. In Ontario you have closed

shop in one public general hospital, you have compulsory check-off in the Hamilton General Hospital.

MR. MACAULAY: Where?

MR. GARSIDE: Hamilton General Hospital, in a modified form, of course. The Greater Niagara General Hospital in Niagara Falls, there is a compulsory check-off after sixty days employment, and revocable at the end of the contract. At the moment Ontario has mostly voluntary revocable check-offs.

MR. MACAULAY: Would you say the great proportion of them in Ontario had some form of compulsory check-off?

MR. GARSIDE: Yes, I would say so.

MR. MACAULAY: Would you say the majority?

MR. MARTIN: Compulsory checkoff, you asked -- oh, definitely not.

MR. GARSIDE: I should have said the great majority have some form of check-off.

MR. MACAULAY: If they are not a compulsory check-off, how does the voluntary check-off work?

MR. GARSIDE: Usually by way of the union presenting an authorization to the hospital administration -- some times as a result of an interview on the premises of the hospital by union visitors.

MR. MACAULAY: Then the hospital takes off the dues, by having a list of the union members; is that right?

MR. GARSIDE: Yes.

MR. MacDONALD: In other words, it would be accurate to say that the general situation is that there are very few union shops which means you must join a union, but there is fairly general use of the Rand formula; you do not have to join the union, but there is a deduction of dues?

MR. GARSIDE: There is one thing I should say, perhaps, with reference to this. The compulsory -- the voluntary check-offs are frequently signed and it becomes almost compulsory in nature. I do not think you can draw a distinction between the two in actual practice.

MR. MACAULAY: My friend's point was this: where there are **voluntary** check-offs -- I would like to get this exactly pin-pointed -- where there is a voluntary check-off, is it the Rand formula which means everyone in the union, whether a member of the union or not, has his dues checked off as opposed to a voluntary check-off of the union dues which means only those members of the union will have their dues deducted by the employer? That may not be anyone else's definition, but it is mine. Which is it you are talking about?

MR. GARSIDE: The majority of check-offs in Ontario hospitals are voluntary and revocable, they are entered upon freely by the employees.

MR. MACAULAY: Which have the ----

MR. GARSIDE: There are very few Rand

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formulas.

MR. MACAULAY: Are they the former kind or the latter kind?

MR. GARSIDE: Which is your former kind?

MR. MACAULAY: That was where everybody in a defined union has to pay union dues whether they belong or not.

MR. GARSIDE: They are not the former kind.

MR. MACAULAY: So therefore, the check-off itself in most hospitals where there is a check-off is only for dues that are deducted from persons who belong to the union?

MR. GARSIDE: You cannot mix them up.

MR. METZLER: They must file a card in order to go into voluntary revocable check-off. This is a question I would like to ask: there would be provision in the collective agreement for the voluntary revocable check-off, that would be granted by the hospital; is that right?

MR. GARSIDE: It is usually done, but I do not want to -- on the check-off it does not involve union membership. A person can support by way of check-off the collective bargaining agency without necessarily belonging to the union.

MR. MACAULAY: And is that the majority of cases?

MR. GARSIDE: No, the question is not raised in the form of check-off, usually.

MR. MacDONALD: You say there is one closed shop in the hospital in Chatham; is that a closed shop of the nature ---

MR. GARSIDE: Belonging to a union before they are hired. It appears to be there, and I do not see how a closed shop in the full sense can apply because there is no organization in the hospital union to supply personnel.

MR. MACAULAY: Maybe it just applies to the labour element.

MR. MARTIN: I think you have to be careful about making a definition because we have segments and sections: in some of these places there are only operating engineers that are part of it. It involves very few people, and this one in particular is only for the engineers, so you should not be misled on this.

MR. METZLER: Mr. Chairman, I think it would be as well for the Committee to bear in mind that they are talking about a closed shop. The person must belong to the union as a condition of obtaining employment. The union shop, on the other hand, permits a person to obtain employment but usually provides in the collective agreement that at the expiry of a certain period of time -- thirty, sixty or ninety days -- the person must join the union.

MR. MACAULAY: Does the Rand formula

require you to have a union charter?

MR. METZLER: No, the Rand formula, if it is applied by the collective agreement, says that everybody in the bargaining unit must check off the equivalent of union dues and whatever else is provided under the terms of the collective agreement to the union. Included in that group will be many members of a trade union, but there may be others who are not members of a trade union but are subject to deduction of the equivalent of union dues, which are paid over to the union.

THE CHAIRMAN: Page 5, Prohibition of Strikes and Slowdowns in Hospitals.

MR. MACDONALD: On page 5, could you give me a few instances of where there might be a difference between hospital discipline and union discipline?

MR. MARTIN: This is not dealing with strikes ---

MR. MacDONALD: The middle paragraph on page 5:

"Union influence and discipline
"may be equally or more signifi-
"cant to employees than hospital
"disciplines."

MR. MARTIN: I cannot give you a specific instance right now. That is where there has been a situation of this kind occurring. What there is, there is a fear, and the problem, as you know in this

type of thing, where there are certain stipulations which are applied as conditions of membership in the union, I think will run afoul, because when you are looking after sick people things just do not begin and end in the same sense/^{as}in perhaps an industrial thing.

MR. MacDONALD: It relates to your basic fear of strikes and slow-downs?

MR. MARTIN: That is right.

MR. MACAULAY: Your fear of serving two masters, and if you have to make up your mind you would serve the union even if the person could not dispose of your services?

MR. MARTIN: That is basically the fear that has been coming up to us through these problems.

MR. GARSIDE: It is a question of the transfer of basic reliefs, also there is a very important difficulty because things just do not begin and end in hospitals as they do in industrial processes. If you have different hours of work and all the rest of it put in too readily by unions you will see there will be difficulty.

MR. MACAULAY: My own view is that those things are equally applicable to industry and frankly they do not hold much water with me. I think if you recognize unions you recognize them. There are exceptions but I think that same principle applies.

MR. SPOONER: I think, Mr. Chairman, with respect to Mr. Macaulay's observation, the operation of a hospital is just a bit different.

MR. MACAULAY: I know, but you differentiate on a different basis, not a difference in realities. If you lock people out because they might favour a union beforehand, say it would be better to have management, then you would not have a labour movement.

MR. MacDONALD: It relates to my greatest worry or criticism, the suggestion that union membership involves an obligation that is not compatible with esprit de corps and obligations and everything in a hospital. Now, if that is really the case I would like some evidence.

MR. MARTIN: I would have to clarify your point of view, and perhaps ours too, that what we are more concerned with is the problem that you get into in the complexity of the types of people working here and the allegiance they owe to different groups.

MR. MacDONALD: You yourself said in most instances these problems have not arisen, and I think in all the groups in the world the hospitals have more problems than any other, and you should not look for more.

MR. MARTIN: They begin to arise when you get to who is in what bargaining unit.

THE CHAIRMAN: Prohibition and slow-down in hospitals, pages 5, 6 and 7.

MR. MacDONALD: Have there ever been slow-downs in hospitals? We have the evidence there have never been strikes. Have there ever been slow-downs? I have never heard of it. How would you operate a slow-down in a hospital?

MR. MACAULAY: How would you do it? You do not have a production line.

MR. MacDONALD: Do you walk more slowly to get the pills to the patient?

MR. MARTIN: I think that is what is intended.

MR. YAREMKO: On page 6 you say:

"This association believes that
"strikes and slow-downs should
"be expressly forbidden in hos-
"pitals whether an agreement is
"in effect or not."

What would you suggest in its place?

THE CHAIRMAN: Compulsory arbitration.

MR. MARTIN: Yes, we are coming to that point.

THE CHAIRMAN: I think we are going to hear more from you at a later date?

MR. MARTIN: Yes.

MR. METZLER: Mr. Chairman, may I ask a question which is of a general nature but may be

applicable here. Under the Public Hospitals Act is a hospital defined?

MR. MARTIN: Yes, a hospital is defined.

MR. DILLON: A hospital means:

"Any institution, building or
"other premises or place estab-
"lished for the treatment of
"persons afflicted with or suf-
"fering from sickness, disease
"or injury or for the treatment
"of convalescent or ill persons
"that is approved under this Act
"is a public hospital."

MR. METZLER: The purpose of that ques-
tion is this: if this Committee in its wisdom de-
cides that there is a specific situation that must
be dealt with in regard to hospitals, is that
definition, if it had to be inserted or reference
to it had to be inserted in the Labour Relations
Act sufficient to cover the situation as contem-
plated by the Ontario Hospital Association?

MR. MACAULAY: No, it is too wide.
It would depend on what you mean by mental disability
and it apparently covers ~~private sanatoria~~ private
private hospitals.

MR. MARTIN: Not in this Act ---

MR. MACAULAY: The definition is wide
enough so the definition could not be taken

1. The first part of the document is a letter from the President of the United States to the Congress, dated January 3, 1862. It contains a report on the state of the Union and the progress of the war.

2. The second part is a report from the Secretary of the Treasury, dated January 10, 1862. It contains a report on the state of the Treasury and the progress of the war.

3. The third part is a report from the Secretary of the Interior, dated January 17, 1862. It contains a report on the state of the Interior and the progress of the war.

4. The fourth part is a report from the Secretary of the Navy, dated January 24, 1862. It contains a report on the state of the Navy and the progress of the war.

5. The fifth part is a report from the Secretary of the War, dated January 31, 1862. It contains a report on the state of the War and the progress of the war.

6. The sixth part is a report from the Secretary of the State, dated February 7, 1862. It contains a report on the state of the State and the progress of the war.

7. The seventh part is a report from the Secretary of the War, dated February 14, 1862. It contains a report on the state of the War and the progress of the war.

8. The eighth part is a report from the Secretary of the State, dated February 21, 1862. It contains a report on the state of the State and the progress of the war.

9. The ninth part is a report from the Secretary of the War, dated February 28, 1862. It contains a report on the state of the War and the progress of the war.

10. The tenth part is a report from the Secretary of the State, dated March 7, 1862. It contains a report on the state of the State and the progress of the war.

holus-bolus when applying to hospitals.

MR. METZLER: Are there any exclusions in the Public Hospitals Act that would limit that definition?

MR. MARTIN: I am not aware of any because each of the Acts, the Private Hospitals Act and the Sanitaria Act, carry its own definitions.

MR. METZLER: Are they excluded by any legislation excluding them, the Private Hospitals or Sanitaria Act from the provisions of the Public Hospitals Act?

MR. DILLON: Under Section 2 it says:

"Nothing in this Act relates
"to or affects a sanitarium
"under the Sanitariafor Con-
"sumptives Act or a private
"hospital under the Private
"Hospitals Act."

MR. MACAULAY: We would have to go further than that in ours, though.

THE CHAIRMAN: Page 7, Exclusion of Nursing Personnel from the Labour Relations Act.

MR. YAREMKO: It states at the bottom of page 7:

"Similarly, graduate nurses
"and student nurses are usually
"excluded from such a bargaining
"unit."

What criterion applies whether they are or not? What is the significance of the word "usually", because later on, I think, in your brief you state categorically that page 11:

"Since graduate nurses who come
 "under the Nursing Act are
 "excepted from the building
 "service bargaining units as
 "being professional staff --"

Now, what is the significance of the word "usually"?

MR. MARTIN: The significance of the word "usually" is this, that experience indicates that to date these people have been excluded from the bargaining units that have been set up in hospitals.

MR. YAREMKO: Excluded by the Board?

MR. MARTIN: It would be by the Board and in practice.

MR. YAREMKO: Is it usually or that they are?

MR. GARSIDE: The meaning of the word "usually", it does not mean one hundred per cent.

MR. McDONALD: Are there some exceptions where they are some ---

MR. GARSIDE: I am informed they have 35 registered nurses in some cases. I think the gentlemen of the Board pointed out to me, in a situation, that the exclusion of these nursing

assistants was -- their response was, "Mr. Garside, do you know that we even have certified registered nurses?" Now, that is getting out of line.

MR. MACAULAY: There likely is some specific reason why they were included. What you mean is, registered nurses are excluded irrespective of their job?

MR. GARSIDE: I would say usually, not all cases. I have never had reason to know why the Board has gone along with the classification of registered nurses, graduate nurses and student nurses.

MR. MACAULAY: If the statement on page 11 is correct:

"Since graduate nurses who come
"under the Nursing Act are ex-
"cepted from the building service
"bargaining units as being pro-
"fessional staff --"

I assume from that they can still be certified in a union of some kind. Is that what you mean?

MR. GARSIDE: The point was, that the contention that if graduate nurses and student nurses are outside so also should be the whole nursing staff. That was the point of the argument.

MR. MACAULAY: I understand that, but you do make the statement that graduate nurses are excepted, and yet on page 7 you say they are

"usually" excepted.

MR. MacDONALD: Could you give me specific instances?

MR. GARSIDE: I am trying to think. I do not want to be inaccurate, but I think the exception was the Kingston hospital.

MR. MACAULAY: What hospital is that?

MR. GARSIDE: It is quite a while ago; I would have to look it up.

MR. MacDONALD: The General Hospital or the Hotel Dieu?

MR. GARSIDE: No, I think the case involved -- I do not remember the name.

MR. METZLER: Well, that raises a point. Were these nurses that were included acting in their professional capacity as registered nurses or were they performing other duties that are customarily performed by people usually included in the bargaining unit?

MR. GARSIDE: May I suggest perhaps you may get a better reply from the Registered Nurses Association when that brief comes up before you tomorrow.

MR. MACAULAY: Well, may I have one more moment. I cannot get this straight in my mind. On page 11, in the middle of the second paragraph, you say:

"Since graduate nurses who
"come under the Nursing Act are
"excepted from the building
"service bargaining units as being
"professional staff --"

Where are they excepted?

MR. MARTIN: I think perhaps the terminology is misleading there, in this sense, that we accept the fact they have been usually excepted in the contracts that have been negotiated.

MR. MACAULAY: You do not say that.
You say they are excepted.

MR. MARTIN: We are making a statement of fact as is.

MR. MACAULAY: You do not mean it is the law?

MR. MARTIN: No.

MR. MACAULAY: In the other statement you say they usually are, and now you say they are. Those two statements do not jibe.

MR. MARTIN: Well, there is no legal exception for these people as it stands now; it is only practice.

MR. WREN: Is it your desire as management that registered nurses be excluded from agreements or is it your desire, as a result of requests to you from the registered nurses? Which is it?

MR. MARTIN: I would say it is a desire

of ours generated by requests to the administration of the hospitals to except these people.

MR. WREN: In effect you suggest the registered nurses have asked you to raise their cause to have them excepted from the Labour Relations Act?

MR. MARTIN: If by "registered nurses" you mean an organized group, I would have to say no. If you are talking about a registered nurse as an individual, I would say yes. We have not had a specific request from registered nurses to do this.

MR. WREN: All right. As far as you know, individual registered nurses have suggested that they do not want to come under collective bargaining?

MR. MARTIN: Yes.

MR. MACAULAY: Then basically, other than the reason raised by my friend, from the administration point of view of the hospital, as an association of administrators of hospitals, is that not your point?

MR. MARTIN: That is right.

MR. MacDONALD: This separation raises some problems. I do not know how you can avoid them, but I know of one instance where the hospital employees applied, and their negotiations were not successful in getting a five-day week. The explanation of management was: "We cannot give it to

you because we cannot work it out with the nurses."

A very short time later they sat down with the nurses and worked it out and gave them the five-day week and the rest of the hospital employees said, "What goes on?" Was management bargaining in good faith or were they leading them up the garden path?

MR. MACAULAY: Where was that?

MR. MacDONALD: Port Arthur.

MR. YAREMKO: Why did they not go back the second time?

MR. MacDONALD: They likely will next year, but they now have a contract.

MR. YAREMKO: It was not possible when that was said but it was worked out?

MR. MacDONALD: Their claim was they could not work it out, and two or three weeks later they worked it out.

MR. YAREMKO: At the time they could not work it out and they proceeded to work it out so now they will not have that argument.

THE CHAIRMAN: It is very interesting and we are very pleased to hear all these comments, I am sure, but shall we continue?

MR. YAREMKO: At the top of page 8 you say:

"Nurses are very closely associated with doctors in the performance of their duties relating to patient care."

It seems to me that the only comparison is that they both have direct contact with the patient, but in all other respects a comparison between a member of the medical profession, a doctor, and a nurse, they are not on a comparable basis at all, except for the fact they have direct contact with the patient. Their earning capacity, their status, is quite different.

MR. MARTIN: I do not think that was inferred here. We are talking ---

MR. MACAULAY: Do you not mean they work closely together?

MR. MARTIN: Yes.

MR. MACAULAY: My friend thinks you are saying their duties are the same kind of duties, and all you mean is they work together in close association?

MR. MARTIN: Yes, they do. The nurses are performing the treatment the doctor prescribes.

MR. YAREMKO: Your reasoning is that members of the medical profession are exempt from the Labour Relations Act; is it reasonable to conclude from that that therefore nurses should be excluded?

MR. MARTIN: I think that is a reasonable assumption.

MR. MacDONALD: If you carry your argument on, of nurses working with doctors, orderlies

work with nurses. Therefore nurses are excluded and the orderly should be excluded, and it goes down the line.

MR. MARTIN: We do not carry that logic on.

MR. MacDONALD: It is implicit.

MR. MARTIN: I do not think so.

MR. MacDONALD: Your brief carries it on.

MR. MARTIN: Only to certain workers, to the assistants.

MR. MacDONALD: Certified and non-certified.

MR. MARTIN: Because of the certain area ---

MR. METZLER: The question was asked with respect to the hospital at Kingston, and my information is the people involved there were not registered nurses, they were technicians. They as a group petitioned the Labour Relations Board to be excluded and the Board turned them down. However, my further information is that the union representing the group and the hospital have negotiated this for the exclusion of these technicians so they are excluded by reason of the negotiation between the hospital and the union.

There is one other situation where registered nurses are included in a bargaining unit,

and I would like to draw this to your attention. In the instance of the City of Toronto -- I do not know whether it is Metro or the City of Toronto as such -- bargaining is done on behalf of the whole broad group of municipal employees, and I am informed that registered nurses are included in that instance, although they may not be practising their profession in a hospital.

MR. MARTIN: I think we were aware of those instances but did not feel free to talk about them because they are not in our ---

MR. METZLER: I am just coming back to the position that was mentioned of exclusion or inclusion of registered nurses' membership in bargaining units.

THE CHAIRMAN: Page 9, Nurses' Assistants.

MR. MacDONALD: Do you draw a distinction here in your terminology as between nursing assistants and orderlies?

MR. MARTIN: I would say that by and large we are drawing a distinction.

MR. MacDONALD: What is the difference, just in the sense that the nursing assistant is usually female and the orderly is usually male?

MR. MARTIN: Well, the term "orderly" covers a great area, Mr. MacDonald. Perhaps it is not the definition we have given to it, but an

orderly, I would say -- drawing the distinction -- is the one that would be just a clean-up type in certain areas, and so on.

MR. MacDONALD: Well, just to go ahead -- I think it is all in the same section -- on page 10 you indicate the scope of duties will become even wider with regard to nursing assistants. Now, if they do become wider, what present categories in the hospital are they going to, in fact, encompass?

MR. MARTIN: Well, the present category -- I doubt there would be an expansion of categories, but there would be a further expansion of, let us say, broader points of involvement in certain areas, that may not be there now. That is in treatment areas. Obviously the nursing assistants will have to assume more and more specialized duties that may have been up to this time those of the registered nurse.

MR. METZLER: May I ask a question with reference to nursing assistants? On page 9 there is a list of classifications which are ordinarily included in the bargaining unit. Now, is there any interchangeability of duties as between any of that group and nursing assistants?

MR. MARTIN: I would answer no to that question.

MR. METZLER: There is a definite cleavage at the rank of nursing assistant and up?

MR. WREN: What is the difference between a ward aid and a nursing assistant?

MR. MARTIN: Well, I would say that there the main difference would be that ward aids have more of a responsibility for the physical aspects of the patients rather than anything to do with direct treatment of the patients.

MR. GARSIDE: In negotiations with the Toronto Western Hospital the problem of the definition of a nursing assistant was brought up and it was clearly shown through negotiations, and it developed that they included both male and female, and the term "orderly" was dropped. The nursing assistants do highly specialized work in that particular hospital. It is a teaching hospital with top-grade nursing assistants. There are other procedures of a technical type.

THE CHAIRMAN: And the nursing assistants are also certified, are they not?

MR. GARSIDE: Most of them there are not.

MR. MARTIN: There are many who are certified.

MR. MacDONALD: When that happens, is this not what happens: an orderly who may have had special duties which are now in the field of a nursing assistant -- as far as eliminating orderlies, they either become specialists to the degree that they become nursing assistants, or they become

cleaners?

MR. GARSIDE: There is the difficulty of the relationship of the people within the union and the people outside of the union. You face that problem.

MR. JACKSON: That is your objection, then, the fact that they are lumped together in the one bargaining unit?

MR. GARSIDE: Here we have said the entire nursing group as a unit should be taken out from under the Act.

MR. JACKSON: Would you object if they had their own bargaining unit? The nurses and the nursing assistants, if they had their own bargaining unit, would that knock out some of your objections?

MR. MARTIN: I do not think we would be prepared to say there would or would not be objections; anything more than we have said basically there has been no distinct opposition or no desire on the part of the hospital management generally to go along with whatever is customary.

MR. MacDONALD: Except your brief asks specifically to be exempted from the Labour Relations Act.

MR. GARSIDE: This section says they should be exempt from collective bargaining units.

MR. WREN: You are asking us to set aside

a special group, nursing assistants. Are these nursing assistants used to assist and lighten the burden of the registered nurses or is this classification set up because there is a shortage of registered nurses and this additional staff is required, and are they gradually assuming the duties and functions of a registered nurse?

MR. MARTIN: I think both statements would be correct, but what in essence we are talking about in this group are the people who have direct contact with the patients.

MR. WREN: Well, you are using nursing assistants in this brief because you find it is necessary to have them to perform duties which would ordinarily, if they were available, be performed by registered nurses. Is that right or wrong?

MR. MARTIN: If you want to draw some line of simile, but if it is a statement of fact I would say that in the development of our business, shall we say, in the development of patient care these people have become very vital parts in the treatment team.

MR. WREN: If the Committee of the Legislature agreed with your recommendations, would we in effect be lowering the professional status of nurses by treating them as a separate entity?

MR. MARTIN: I do not think that would happen. No, I think the profession can look after

themselves.

MR. MacDONALD: As a matter of fact, have you ever made recommendations to the Board that nursing assistants be excluded?

MR. MARTIN: Yes.

MR. MacDONALD: What was the decision of the Board?

MR. GARSIDE: To include them.

MR. MacDONALD: On the basis that they are non-professional?

MR. GARSIDE: Yes.

MR. METZLER: A final question on nursing assistants: are they exclusively female or are they male and female?

MR. MARTIN: They could be both.

MR. YAREMKO: Mr. Metzler, has there ever been an instance where all the nurses of a hospital have applied to be certified as a bargaining unit?

MR. METZLER: Not to my knowledge.

MR. YAREMKO: But there is nothing to prevent the nurses in a hospital getting together and forming a union and applying for certification?

MR. METZLER: As long as they were employees permanently employed by a hospital, I would think they would be entitled to make application for their own group.

MR. YAREMKO: On the basis of the decisions

of the Board in the past, they would have to deal with a separate bargaining agent?

MR. METZLER: Yes, they are excluded now.

MR. MACAULAY: They would not be considered by the Board as having confidential information?

MR. METZLER: Oh, no.

MR. MACAULAY: Probably confidential information as far as patients are concerned?

MR. METZLER: No, the basic requirement of the thing is community of interest. It has been established by the Board in dealing with this problem that that type of thing does not specifically lie with the nurses as such, so, therefore, they might have been excluded because of the professional standing, but at any rate ---

MR. YAREMKO: Actually, Mr. Martin, you are suggesting to the Committee that the policy that they be no included be continued and perhaps extended to include a little broader field within the nursing service, and you go beyond that, and your brief says it should not be possible for nurses to form a bargaining agency; that is your brief, is it not?

MR. MARTIN: That at the moment is our position.

MR. MacDONALD: Mr. Chairman, just to clarify this a bit more, on page 9 it says:

"The Labour Relations Board

"ordinarily certifies such
 "classes of employees as
 "cleaners, maids, porters ---"

etc., etc. As a matter of fact, at the moment does not the Board in effect say: "We will certify all employees of the hospital with the exception of ---" and it does not attempt to broaden categories at all.

MR. MARTIN: Again we are dealing in the realm of what usually happens.

MR. GARSIDE: And pointing up the incompatibility of the two kinds of service.

THE CHAIRMAN: Is there anything further on this topic?

MR. MACAULAY: Well, one question: what is the status, Mr. Chairman, of nurses that are not registered nurses but are in organizations who do serve -- I do not know whether Mothercraft is a good example -- but they are practical persons; they go out in the capacity of practical nurses; what do you call them?

MR. MARTIN: Nursing assistants, practical nurses are considered nursing assistants.

MR. MacDONALD: Mr. Chairman, may I ask this general question: Has this brief the endorsement of the Hospital Boards across the province? In other words, has it been submitted and considered and in effect endorsed by them?

MR. MARTIN: It would be an emanation of the opinions of the boards of the hospitals that have been received in relation to the question that was directed to us when this Committee first started to sit, and it would have been examined by committees of the board of the Association, yes.

MR. MacDONALD: The reason why I ask, I have been informed by the hospital boards of at least four important centres -- Oshawa, Ottawa, Niagara and St. Catharines -- that they never saw the brief and do not know what is in it. That may be qualified to the extent they may or may not have sent something in, because I am still a bit puzzled by some of the suggestions in here for altering basic relationships with collective bargaining units when you say yourself they are pretty happy ones. I have been informed, at least in one instance, by a board member in Oshawa, that they certainly would not be happy in seeing some of these things implemented.

MR. MARTIN: I would have to say what I have already said to you, Mr. MacDonald. I could not speak for all the 2700 board members that are involved in the hospitals across the province; I have not said to them, "Now, are you satisfied with this?"

MR. MACAULAY: Well, is this not inherent, that what we have asked for is a submission on behalf of the Association and the Association has given us a submission?

THE CHAIRMAN: That is right, whether it is concurred in or not. Is there anything further on this topic or arising out of this brief?

MR. SPOONER: Yes, Mr. Chairman, I would like to ask a question. Could your Association tell us what proportion of employees other than nurses, graduate and student, and nursing assistants, are organized in some union organization at the present time?

MR. DILLON: To the best of my knowledge there are 38 hospitals who have organizations representing something like ten different unions. Your question referred to the number of employees?

MR. SPOONER: What percentage of all the employees in hospitals, other than those who are professionals?

MR. DILLON: I wonder if you could add to that to the previous offer to send information?

THE CHAIRMAN: I think as a result of something said by Mr. Macaulay that rather than write to us, perhaps you should consider the questions that have been posed to you, if you would be good enough, and then come back. Our secretary will advise you as to when we can hear you, and you could answer those questions and give us any additional information you may see fit.

MR. YAREMKO: May I make the suggestion, Mr. Chairman, that if they are going to come back

would they be good enough in the meantime to circularize this to all their associations?

THE CHAIRMAN: I do not think we can ask these gentlemen to do that. It is going to involve meetings of hospital boards all over the province.

MR. YAREMKO: The only reason I say that is that a member of the Committee brought up the fact -- I am informed he did not say by whom, when, what or where -- he was informed by someone that they were not acquainted with this brief.

THE CHAIRMAN: I would suggest in order to overcome that difficulty, if Mr. MacDonald has any information from any hospital board members that these men are free to come here or send us written submissions. Let them do that. I do not think we can ask the Ontario Hospital Association to get approval from all the hospitals in Ontario.

MR. YAREMKO: I agree with that. I do not want to put these people to extra trouble, but I do not think the Committee should permit members to say: "I am informed" -- to give a blanket statement.

THE CHAIRMAN: Mr. MacDonald stated one was from Oshawa, one from Welland, and there were two other places, and that is a legitimate thing to say. I have enough confidence in Mr. MacDonald to think he would not make this statement unless he had received this information.

MR. SPOONER: I would like to ask this question: In the past has your Association as such interested themselves in negotiations between union organizations and individual hospitals, or do you stay out of that picture entirely?

MR. MARTIN: Yes, the hospitals all are represented in the Association; they are all absolutely, legally autonomous, and if you mean have we ever entered into any of the collective bargaining processes, we have not.

MR. SPOONER: Has there ever been a suggestion on the part of your organization that you should have a group of specialists who would deal with union-management negotiations in the individual hospitals? That suggestion has been made by other similar organizations or groups that I have been associated with.

MR. MARTIN: Yes, that suggestion has been made.

MR. SPOONER: You have not looked upon it with favour?

MR. MARTIN: So far we have not been involved in that type of thing.

MR. SPOONER: May I ask this question: Do your hospitals permit solicitation for union membership on hospital premises prior to certification or after certification? Are you aware of that? The reason I ask the question is that in some

cases I would suggest there are hospital employees who reside on the premises of a hospital. Do you consider you can exclude the union business agent from calling on these people after work to discuss union business or union participation on the part of that employee?

MR. MARTIN: I would just have to answer that that point has never come up to my knowledge; I have never had it put to me as a problem by anybody.

THE CHAIRMAN: It is now one o'clock. On behalf of the Committee, gentlemen, we are very thankful to you for the brief you have presented and we trust that when the secretary advises you that we are able to hear you again you will be able to come and give us the information asked for.

MR. MARTIN: Thank you very much, Mr. Chairman.

THE CHAIRMAN: This afternoon at two o'clock we shall hear from the National Union of Public Service Employees.

---The hearing resume at 1.00 p.m. to resume at 2.00 p.m.

(Page 2031 follows)

---On resuming at 2.00 p.m.

THE CHAIRMAN: Gentlemen, I see a quorum.

This afternoon we are to hear from the National Union of Public Service Employees, and the delegates representing this organization are Mr. S. A. Little, Director of Organization, and Mr. F. Kitchen, one of the representatives.

Who will be reading the brief?

MR. LITTLE: I will, Mr. Chairman.

THE CHAIRMAN: Well, will you be good enough to proceed, Mr. Little?

---(Brief read by Mr. Little).

THE CHAIRMAN: Thank you very much.

Well, gentlemen, we shall proceed to deal with this brief in the usual manner.

MR. WREN: Mr. Chairman, would the witness give us some idea of the number in the organization that he represents? Would you, Mr. Little, give us a brief outline of your organization?

MR. LITTLE: Our organization has about 20,000 members, the biggest majority of which are in the Province of Ontario.

We are an organization with la.

jurisdiction within the C. L. C., confined to public service. That includes civic groups, public utility groups, Board of Education groups, hospital groups and the like.

MR. MacDONALD: How old is the union?

MR. LITTLE: It originated from a bunch of C.C.L. chartered locals in 1945.

MR. WREN: And your head office is where?

MR. LITTLE: Toronto. It is a national union, by the way.

MR. WREN: And how many members of the union, would you say, are in Ontario?

MR. LITTLE: Oh, about 14,000 or 15,000.

THE CHAIRMAN: 75 per cent.?

MR. LITTLE: About 75 per cent.

MR. YAREMKO: As a general rule, are these by-laws passed by municipalities after you have filed an application for certification, or when do the majority of such by-laws ...?

MR. LITTLE: I would say the majority are passed after the employees have made an application. It has happened in some instances when the management became aware of what was happening. However, in one instance, such as Weston, it was passed purely as a precautionary measure.

MR. YAREMKO: It would probably be alleviated to some degree if the section were amended to state that "provided no application has been filed before the Board"?

MR. LITTLE: It would be to some degree, but I presume it would be a very small degree that that would happen, because I think managements would then feel it was necessary to wait until the time came.

MR. MacDONALD: Perhaps Mr. Little can verify this point. I notice that the section itself has a wording that rather mystified me: "Any municipality as defined in the Department of Municipal Affairs Act may declare this Act shall not apply to it in its relations with its employees or any of them". What does that mean -- "...with its employees or any of them"?

MR. LITTLE: We are told by our legal representatives that it can apply to as little as one member. They could have them all covered except even one.

We have had the threat being used against us where the Corporation happened to be a large city and they wanted to have the janitor staff excluded from the city bargaining units. They said: "If you don't agree to the exclusion of them by mutual agreement we will apply to have them excluded under the section". And their

interpretation was that they were automatically excluded from the unit.

MR. MacDONALD: In other words, the Labour Relations Board will accept what might be described as partial exclusiveness?

MR. LITTLE: Yes.

THE CHAIRMAN: That is, a municipality can pass a by-law to exclude its employees, or any group, or any one employee, from the operation of the Act?

MR. LITTLE: That is right. We have some where they have the outside employees under the Act and the office employees outside the Act.

MR. MYERS: You say the effect of that is that there is nobody to bargain for the employees. We have had unions here wanting to get out of the Act.

MR. LITTLE: There are some of the building trade conditions, presumably, whereby the Act creates some problems.

MR. MYERS: Why do you think municipal employees would be better off if the Act did apply?

MR. LITTLE: Because there would then be orderly procedures established under the Act for a certified bargaining unit, and they would

then be eligible under the provisions of the Act and any protection that goes with them.

MR. MacDONALD: In your experience does the power of passing such a by-law rest with all agents of the municipality, or just the municipality itself?

THE CHAIRMAN: Only the municipality can pass a by-law.

MR. LITTLE: I would have agreed with the Chairman up until recently, but we have had it actually proved in a case where the Board of Education in York Township passed a by-law. We had another instance where an Incinerator Board out in New Toronto ...

THE CHAIRMAN: It can pass a resolution.

MR. METZLER: May I clarify that? Specifically, to get the coverage, the reference is made to "municipality" as defined in the Department of Municipal Affairs Act, and that is exclusive of local boards and commissions; and they may proceed either by by-law or by whatever other method is given to them to transact their business; and a resolution would be one of them.

MR. MacDONALD: A resolution would be sufficient without the by-law?

MR. METZLER: It says "...any

municipality may declare ..." It doesn't say how the declaration is to be made.

In the case of a **Municipal Council** I think they proceed by by-law because that **is** their accepted form of operation; but a local Board such as a Hydro Commission, or a School Board, might proceed by resolution, declaring that the Act does not apply to its employees or to any particular group. For instance, a municipality might, if it so desired, declare that employees in a municipally owned and operated hospital would be excluded, but that would not affect the other employees on the inside and the outside services of the municipality proper.

MR. MacDONALD: The Chairman might be **inter**ested in one case of a School Board which was in operation for years, and the first by-law they ever passed -- after 20 or 25 years -- was a by-law in this connection. Am I not correct, Mr. Little?

MR. LITTLE: Yes, that is correct; and the same with this **Municipality Incinerator** Board out at New Toronto. They passed a by-law after eight years of operation.

I might say to Mr. Metzler, to clarify this, that the Board has more or less taken a tighter application of this clause by now insisting

that it be by by-law rather than by resolution, or by simply sending in a telegram that the resolution is passed excluding them from the Act, to be followed by a letter. The Board now prefer that it is by by-law in all instances; and in one case it went back and gave certification after they had said they wouldn't. They have rectified that. They must submit a certified copy of a by-law.

THE CHAIRMAN: Yes, Mr. Spooner, you wanted to say something?

MR. SPOONER: I was going to ask this question of Mr. Little: You said ~~you~~ had about 15,000 members in your organization in Ontario. Have you any idea as to the number of unorganized employees in the field in which you operate? In Ontario how many municipalities do you have contracts with?

MR. LITTLE: It would be a guess. We have now the merger which embodies, in our opinion, by far the majority of those not already in our union. There are many small groups, but the biggest majority of unorganized people would be in the hospital field, I would imagine, and most large municipalities have some large organization which is recognized as the Labour organization.

MR. SPOONER: You made mention of certain municipalities that used Section 78. What happened to those, eventually? Did they change

their mind and revoke the by-law and then proceed with regular, ordinary negotiation -- negotiation and certification?

MR. LITTLE: No. In most instances, I am sorry to relate, they didn't.

MR. SPOONER: They didn't.

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MR. LITTLE: It became an open warfare fight, such as in the City of Kingston where they passed a by-law, and after we spent about eight months trying to prevail upon them to change their mind they didn't, and it resulted in a strike. We do have a collective agreement as a result of that strike, which has been renewed seven or eight times; and the former Mayor Wright made great boasts about the good labour relations they had.

MR. SPOONER: There was, actually, there, eventually a collective agreement which was entered into between the union members and the municipality?

MR. LITTLE: Yes.

MR. SPOONER: In spite of the fact that they still had this by-law in the books?

MR. LITTLE: Yes. The same thing exists in the City of Ottawa. They are outside the Act but they have a collective agreement.

MR. SPOONER: With certain employees, or for certain employees?

MR. LITTLE: Yes. However, the units are not parallel to what our Labour Relations Board would

go along with. In other words, the unit, as the presently constituted bargaining set-up, includes everyone up to Department heads and so on.

MR. JACKSON: I wonder if you would kindly answer this question for me: The question of taking Section 78 out of the Act -- we have heard briefs on the advisability of doing that for years, and you mention it here -- the argument that has been put forward, of course, is that the essential services would be disrupted if Section 78 were, say, removed. Could I have your opinion on this proposition that, if Section 78 were removed, there should be compulsory arbitration for essential services?

MR. LITTLE: In my opinion the answer would be a very definite "No.". I think that is substantiated by our ...

MR. JACKSON: You don't want that?

MR. LITTLE: We don't want that. We don't feel it is necessary.

I might point out that out of all the multitude of strikes we have had more strikes in Ontario than all the other national unions concerned in one year. All of them were for recognition, where the by-law or resolution had excluded them from the ordinary negotiation for certification.

MR. JACKSON: But do you not see any danger at all in the police force and the fire

department and the like being disrupted?

MR. LITTLE: Well, the police and the fire department -- in the case of the police, I think Mr. Metzler will agree, there is compulsory arbitration. Firemen have ...

MR. METZLER: They don't bargain through the organization. They have their own organization.

MR. JACKSON: Would they then become part of the bargaining unit?

MR. METZLER: No; they are specifically excluded by the Labour Relations Act.

If you look at Section 2 of the Labour Relations Act you will see that there is an exclusion:

"This Act does not apply ...(c) to
"any member of a police force with-
"in the meaning of The Police Act;
"(d) to any full-time firefighter
"within the meaning of The Fire
"Departments Act ..."

MR. JACKSON: Perhaps it was a bad example I took. Perhaps we should take the example of the public utilities and the service being disrupted because of union difficulties after they have been certified and so on.

MR. LITTLE: I would still disagree with the idea of eliminating Section 78 and agreeing to compulsory arbitration.

We don't feel that anything that has been

done warrants it. We don't feel that it is in the best interests of all concerned. We feel that even where units have not freedom they still haven't acted irresponsibly, and that there is nothing to warrant that at this time. We are opposed to compulsory arbitration as an alternative.

THE CHAIRMAN: Yet in the fourth paragraph on page 2 you refer to the small proportion of people in a municipality -- 20 or 25 employees -- who "...are expected to influence the eligible voters..."

Can you picture the situation where a member of the municipal staff engaged in garbage disposal goes on strike? Would that not have a very detrimental effect on the community?

MR. LITTLE: In hot weather, particularly!

THE CHAIRMAN: In any weather?

MR. LITTLE: No. I agree it is certainly something that should be guarded against in every possible way.

THE CHAIRMAN: How are you going to guard against it without compulsory arbitration, if you are given benefit of the Labour Relations Act?

MR. LITTLE: Well, I think many of these managements would take a much more responsible attitude; and when I say "management" I mean, in

this matter, that we are dealing with elected bodies, many of whom work somewhere else and have their own businesses and come there only on occasion; so, in the main, we are dealing with officialdom. We have had it said to us many times: "If you don't agree with this we will apply and use Section 78."

We feel that that in itself causes half of these problems, and that if they had to deal with it they would sit down and deal with it in a much more responsible manner.

THE CHAIRMAN: I can see that; I quite see that; but don't you think, at the same time, that to protect the public generally and not only the interests of the 20 or 25 involved ... -- say a city or town of 10,000 people: They are going to be deprived of garbage disposal services because of a strike.

Don't you think that, if we do anything about taking out Section 78, we should have a protective clause preventing strikes by requiring that they submit it to compulsory arbitration?

MR. LITTLE: No, I can't say that I do, because I feel that our record and the responsible attitude of the employees has been such that if the time comes it will be a well warranted one and it would only be in the extreme case.

THE CHAIRMAN: Would it ever be really warranted that two, or three, or four, employees

should put a whole community in danger, in such an extreme example as I have used? Can you picture such a situation that would be well warranted?

MR. LITTLE: I think so. I have seen some pretty terrible examples ...

MR. MYERS: Let me draw to your attention a strike that took place in the City of Kitchener Sewage Disposal, and sewage from a municipality of 50,000 people went down the river without any treatment and it was providing the drinking water for the City of Brampton, and it passed through a number of other municipalities on its way. Do you think that that could be justified?

MR. LITTLE: Well, I don't think it was the striking employees that put the sewage in there.

MR. MYERS: Sure it was. They struck and they wouldn't treat the sewage and it was dumped in the river.

Surely that should call for arbitration.

MR. YAREMKO: Mr. Myers, in that case had the municipality resorted to Section 78?

MR. MYERS: I can't remember, but I imagine the section didn't apply.

MR. LITTLE: They were bargaining anyway.

MR. MacDONALD: I think the question here, Mr. Chairman, is one that resolves itself into whether you will do it by rigid rules or on a voluntary basis.

For example, in the case of public service employees the Minister spoke in the House on February 14, 1956 and said that if the government made it possible for the worker on the job to have something some people thought it was a bad thing to do, and he said:

"There hasn't been a strike, and I don't think there will be a strike." So if there was a strike there was an implied threat that they would lose the rights of their organization. I think our experience of those who are in public service indicates that they don't abuse the right of strike.

THE CHAIRMAN: There is no suggestion of that. I think that this organization is a wonderful organization and that relations are kept on a very high plain between employer and employee.

What I am envisaging is what could develop in a serious situation such as the extreme example I chose.

MR. YAREMKO: I think Mr. Little's point is that the municipalities, by exercising their rights under Section 78, force people to do that which, perhaps, they are very hesitant to do, or would never do, and it causes trouble right from the very beginning.

MR. LITTLE: That is very much the point that is raised in this brief, because all our strikes in the past six years have been for recognition. We have been able to resolve all other

3 differences by one means or another -- by conciliation services and so on.

MR. JACKSON: There is no reason to believe that it wouldn't continue that way if 78 was removed?

MR. LITTLE: No; we would continue in that way.

MR. JACKSON: Therefore, there wouldn't be very much opportunity to call upon compulsory arbitration?

MR. LITTLE: No. But what happens with compulsory arbitration is that where negotiations are developing no one wants to take upon themselves excessive responsibility, particularly in view of the political position in municipalities. The easy thing to do, not to get yourself involved, is to ask that there be an arbitration award, and they say: "It wasn't us; it was the Arbitration Board." That is the bad feature of compulsory arbitration. We have had a municipality where the Council said: "We know you are entitled to something, but go to conciliation. So long as the conciliation officers of the Board are involved then we are home free."

MR. YAREMKO: Have there been many instances, or any instances, of a municipality exercising Section 78 after certification as a bargaining unit?

MR. LITTLE: Yes.

MR. METZLER: There was the Toronto case. They had a collective bargaining agreement, and since then the Council passed a by-law excluding the two groups.

MR. MacDONALD: I think in that case that they wanted to be included in another organization. I think that is a very confusing example. Is there any other instance besides that particular one in Toronto?

MR. LITTLE: I think that the Toronto one is a classic example.

MR. YAREMKO: Where, in effect, a municipality has exercised its right after the collective ~~bargaining~~ agreement had been signed -- well, not a collective bargaining agreement -- after certification?

MR. METZLER: Yes.

MR. YAREMKO: And there, again, there is no alternative to the group but to go on strike.

MR. METZLER: There is nothing to prevent them going on strike because the procedure is prescribed by the legislation.

THE CHAIRMAN: That is if they are not under the Act they can go on strike?

MR. METZLER: Yes; and if there is anything that arises out of that then it is left to common law to determine ...

MR. MORNINGSTAR: But with such a small group they wouldn't get anywhere?

MR. METZLER: I wouldn't like to make any comment on that.

MR. MORNINGSTAR: There are other unions that organize these public employees, aren't there?

MR. LITTLE: Yes. You mean others besides ours?

MR. MORNINGSTAR: The U.E.?

MR. LITTLE: No; I wouldn't say they are in our field. They might have the odd group.

MR. MORNINGSTAR: They organize down our way.

MR. LITTLE: In isolated localities, where they have something else to go with them -- something big close by.

MR. MacDONALD: Mr. Chairman, there is one rather unfortunate aspect of this whole thing that I would like to draw to the attention of the Committee.

I have expressed myself on Section 78 so often that I am not going to repeat myself, but it is rather ironical that I should have it in my own backyard. In York Township -- and this is the particular point I would like to draw to the attention of the Committee -- in York Township the municipal employees, including Hydro, have been organized for years and there is a good working

relationship. The last remaining group unorganized are the Board of Education employees, and in seeking organization within the last six weeks they have been faced with this Section 78. So that here you have the last remaining group being denied the right to organize after all the others have the right to organize.

I think that rather suggests that this creates a sort of discriminatory position on these employees, which falls directly upon the Act.

MR. METZLER: The question was raised as to the situation which arises where sanitation employees go on strike ...

THE CHAIRMAN: I quoted that as an example.

MR. METZLER: That occurred in the City of Hamilton four or five years ago. There was a strike which went on for some time and the City's garbage began to collect.

MR. LITTLE: If I might submit, Mr. Chairman, one of the worst features of Section 78 is the fact that the Board requires some kind of answer from the employer-respondent within a period of five days and so on. That gets them all excited about the whole thing. In the case of the smaller municipal Councils who don't meet that often they call an urgent meeting of probably a quorum, three or four that they can get hold of, and oftentimes we are told by the people afterwards that had they known the full consequences of this thing or been fully aware of all the

ramifications they wouldn't have passed the by-law. Then they say: "Are we going to give in now to the employees, or are we going to hang on to what we did", and this face-saving thing ~~becomes~~ a very serious problem. It is my opinion that we have had more strikes over this face-saving than over the actual merits ...

MR. MacDONALD: Does it ever happen that a municipality will reverse its decision and put them back under the Act?

MR. LITTLE: Very seldom. There have been one or two as part of a memorandum of settlement. It says that these employees will be replaced under the Act and remain there for the duration of the ...

MR. MacDONALD: Was Lindsay in that category?

MR. LITTLE: Yes, Lindsay Hydro was in that category.

THE CHAIRMAN: Are there many municipalities as defined under the Department of Municipal Affairs Act which have passed by-laws under Section 78?

MR. LITTLE: Oh, a lot of them - a great number of them; out of 16 applications in a few months I think we had only about three hearings because they had all passed by-laws.

THE CHAIRMAN: Once a by-law is passed there is nothing the Board can do?

MR. LITTLE: They simply say: "It has

been taken out of our hands," and they dismiss it.

MR. JACKSON: Whey they pass a by-law is it always with reference to a group, or ...

THE CHAIRMAN: It can include a group, or only one.

MR. YAREMKO: On page 2, Mr. Little, of what I think is, by and large, a well-reasoned brief, you make the statement that the local administration "calls upon the Provincial Police to not only protect the equipment and property of the Municipality but also to intimidate the strikers ..." Are you implying the administration call in the police to intimidate?

MR. LITTLE: Well, I would not say that they deliberately call them in for the single and sole purpose of intimidating, but it results in that.

MR. YAREMKO: Your brief implies that.

MR. LITTLE: In Wallaceburg we had 21 people who were on strike. There were five local police and twenty-one provincial police and seven cruisers in there for a time during that strike -- weeks and weeks of that strike, as a matter of fact. We had a court injunction put against the strikers for parading up and down in front of the water plant, and the police were there to implement that injunction, to see that the strikers stayed away; and they brought in outside people because local people couldn't be found to replace the strikers, and they

protected those people on their way home to and from work, and stood around all day long while they were working. I was a party to that strike, and if I went near I was pushed back in what I considered to be a high-handed fashion. If it wasn't intimidation it was close enough to suit me.

MR. YAREMKO: But your brief implies that they were called in to intimidate.

MR. LITTLE: I am sorry about that implication.

MR. ROWNTREE: As a result of that strike there was a cut-off of the water supply?

MR. LITTLE: No services were cut off.

MR. ROWNTREE: But you say other workers went in?

MR. LITTLE: They went in to do such services like sweeping the streets. In fact, the majority of the work done was with brooms.

MR. KITCHEN: We estimated that there was about a \$20,000 cost to the public to bring the provincial police in there.

In many cases we thought they were exceeding their jurisdiction.

MR. ROWNTREE: Did you hear the statement made by the Attorney-General before this meeting?

MR. LITTLE: No, I didn't.

MR. WREN: You say that parolled convicts were brought in to replace strikers. Did they replace

the strikers, or were they used as special constables?

MR. LITTLE: No; they replaced strikers.

4 MR. WREN: Was it just a coincidence that they were parolled convicts, or ...?

MR. LITTLE: I am suggesting that there wasn't any coincidence; but I can't prove it. I am told, or I am led to believe, that they were told they could get out earlier if they went and took those jobs. But we can't get documentary evidence.

MR. WREN: Get out of where?

MR. LITTLE: Out of the institution a few days earlier.

MR. WREN: What institution?

MR. LITTLE: The penal institution which they were in in Western Ontario.

MR. WREN: Guelph?

MR. LITTLE: I am sorry, I don't know. I can get it for you. It is at Wallaceburg -- near Wallaceburg.

MR. WREN: They were persuaded that they could get out earlier if they took these jobs?

MR. LITTLE: That was the understanding, but we can't get documentary evidence. They are supposed to have said that themselves.

MR. WREN: Were they skilled tradesmen?

MR. LITTLE: No; they were going around sweeping the street with a broom.

MR. YAREMKO: Are you implying that they were parolled in order to do those jobs?

MR. LITTLE: That is the understanding. They were parolled earlier because of the fact that they would come there and do this work.

THE CHAIRMAN: This institution that you talk about -- was it a county jail, or an Ontario institution?

MR. LITTLE: I would presume it was, but I wouldn't make a statement as to what the institution was they came out of.

THE CHAIRMAN: Did you write this brief?

MR. LITTLE: I wrote this brief.

THE CHAIRMAN: Where did you get that information?

MR. LITTLE: I got it when I was down in Wallaceburg from the people and from the people that were on strike and from the town superintendent.

THE CHAIRMAN: And they were from what institution? You must have some knowledge of that if you make a statement of that kind. You say that these people were allowed out of jail, or out of a penal institution earlier than they would ordinarily have been let out, provided they would do these jobs. You must know where they were from.

MR. LITTLE: Unfortunately, I don't know where they were from. All I do know is that their home was in that vicinity, where they had been in

the institution. But they were in an institution.

THE CHAIRMAN: Well, I think, Mr. Little, in view of the statement you have made here and the instructions that we have been working under, that any statement should be capable of proof, we would like to get that information.

MR. LITTLE: I will make a definite attempt to get it.

THE CHAIRMAN: Is there anything else on page 2, gentlemen?

MR. YAREMKO: You are not suggesting that a paroled convict is not entitled to the protection of the police. As you say here, they were there to protect the strike breakers who were brought in.

MR. LITTLE: They were to protect the strike breakers; and on our attempts to talk to them and approach them we were kept blocks away and so on. A whole area of the town ...

THE CHAIRMAN: There had been an injunction issued, which restrained you from picketing?

MR. LITTLE: Yes.

THE CHAIRMAN: That was the result of a court order.

MR. SPOONER: Had there been any violence in this strike?

MR. LITTLE: No, there hadn't been any violence. Up to that point there hadn't been anything in the way of violence. We had simply paraded

up and down.

There was an episode where the superintendent had gone into the water plant and stayed there for three days of his own accord, and that got some notoriety; but there was no attempt to stop him coming out, or anything of that sort.

THE CHAIRMAN: Is there anything further, gentlemen?

Well, thank you very much, Mr. Little. Your brief is very enlightening. I can assure you that this is a section which has caused us considerable concern and it will receive our very serious consideration.

Now, gentlemen, is that all?

THE SECRETARY: Tomorrow we have briefs from the Registered Nurses Association, the Canadian Physio-Therapy Association and the Ontario Land Surveyors.

THE CHAIRMAN: That is on October 24th -- the Registered Nurses Association, the Canadian Physio-Therapy Association and the Ontario Land Surveyors?

THE SECRETARY: Yes.

MR. JACKSON: Mr. Chairman, I wonder if the Secretary could be instructed to invite two people representative of two organizations of the Motor Transport Industrial Relations Bureau, and possible Mr. I. N. Dodds?

I have a letter here in my possession which,

I think, should be brought to the attention of this Committee, and for the purpose of substantiating what is in that letter I would ask if they could be invited here?

THE CHAIRMAN: At your request, Mr. Jackson, I will instruct the Secretary to see that they are invited.

---Whereupon the proceedings adjourned at 2.45 p.m., to resume at 11.00 a.m., October 24, 1957.

LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,
Queen's Park, Toronto, Ontario

Thursday,
October 24, 1957

JAMES A. MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH, Q.C.	Committee Counsel
MEMBERS:	G.E. Jackson Donald C. MacDonald Ellis P. Morningstar Raymond M. Myers Arthur J. Reaume H. Leslie Rowntree J.W. Spooner Albert Wren John Yaremko Robert Macaulay

APPEARANCES:

Mr. J.B. Metzler Deputy Minister of Labour

REGISTERED NURSES' ASSOCIATION OF ONTARIO

Miss Alma Reid	President
Miss Margaret P. Morgan	First Vice-President
Mrs. Mary F. Strong	Personnel Relations Secretary
Miss Florence H. Walker	Executive Secretary
Dr. Kenneth G. Gray	Legal Adviser

THE CANADIAN PHYSIOTHERAPY ASSOCIATION

Mrs. Kathleen MacPherson	Chairman of Legislation Committee
Mrs. Curtis Millar	Executive Secretary
K. Duncan Finlayson	Legal Adviser

THE CHAIRMAN: Gentlemen, it is now eleven o'clock and this morning we are to hear first from the Registered Nurses' Association and I understand those in attendance for the presentation of the brief are Miss Alma Reid, President; Miss Margaret P. Morgan, First Vice President; Mrs. Mary F. Strong, Personnel Relations Secretary; Miss Florence H. Walker, Executive Secretary; Dr. Kenneth G. Gray, Legal Adviser.

The system we have been following, ladies and Dr. Gray, we would like you to read the brief to us first then when you have concluded that we will question you on it.

---(Brief presented by the Registered Nurses' Association of Ontario read by Miss Alma E. Reid, President).

MISS REID: Mr. Chairman, do you wish me to read the summary of the brief which is appended?

THE CHAIRMAN: Yes, you may do that Miss Reid, please.

---(Miss Reid reads summary of brief.)

THE CHAIRMAN: Thank you very much, Miss Reid. I think at this time, before we discuss this brief, I should call to the attention of the members of the delegation that there have been some letters dealing with this matter and one is from Campbellford Memorial Hospital and it is signed by Mrs. Grace

Drummond, Superintendent. It is addressed to our Secretary, Mr. H. Perkins.

"Campbellford Memorial Hospital,
"Campbellford, Ontario.

"Campbellford, Ont., October 21, 1957.

"Mr. H. Perkins, Secretary Select
"Committee, Labour Relations, P.O. Box 214,
"Parliament Bldgs., Toronto, Ont.

"Dear Mr. Perkins:

"It has come to my attention that you
"are meeting with the board of the R.N.A.O.
"on Thursday, October 24th to discuss
"barring any group of nurses of ever being
"able to obtain collective bargaining.

"In my opinion there should not be
"any discussion on this subject until all
"members of the R.N.A.O. have been informed
"of this issue and a vote of all members
"taken.

"Yours truly, Grace L. Drummond (Sgd)
"(Mrs.) Grace Drummond - Superintendent, GD/eh"

---(Similar letters have also been received from the following people: Mrs. Barbara Hubble, Campbellford Ontario; Gladys Hardy, Campbellford Ontario; Mrs. Doris Caverly, (nee Doris Clemenger), Campbellford, Ontario; Helen Gorman, Campbellford Ontario; Margaret Little, Campbellford Ontario; Ruth Milne, Campbellford Ontario).

MR. MacDONALD: It looks as if Campbellford

has been introduced to collective bargaining.

THE CHAIRMAN: It certainly looks that way. There is also representation from Louise Steele, Cobourg, Ontario, and this is in the form of a brief dated September 19, 1957. By the way, is Miss Steele here?

---(No reply).

If not, I will have to read it for her.

---(The Chairman reads brief submitted by Louise Steele, Registered Nurse, dated September 19, 1957, Cobourg, Ontario.)

THE CHAIRMAN: I merely wish to call this to the attention of the delegation.

MR. WREN: Mr. Chairman, may I ask a question? Does this Association of Registered Nurses appear before this Committee at the request of the Committee or did they make a request to appear?

MISS REID: We made a request to appear.

THE CHAIRMAN: Our questioning will probably be not only the questioning of your brief but also as to these objections that have been sent in so I wish you would bear that in mind when you are being questioned on the brief. Gentlemen, is there anything arising out of page 1 of the brief?

MR. WREN: Mr. Chairman, may I ask this question: Is it true, the statement made by this Miss Steele, that some 12,000 of the 28,000 Registered

Nurses in Ontario are not in the Registered Nurses' Association? Is that statement correct?

MISS REID: That is a fair statement.

MR. WREN: Did I understand from the text of your brief on page 1 that you believe the association is the proper body to act on behalf of the Registered Nurses' of Ontario in their labour relations. I take from that you do not object to the principle of collective bargaining but you do wish to be separated from the non-professional people in the hospitals. Is that assumption correct?

MISS REID: We have, since 1945, in our policies of the Association accepted the principle that we approve of collective bargaining, the principle of collective bargaining, but we feel that we should be able to bargain for ourselves.

MR. WREN: If this amendment of yours were to be carried out and incorporated in the legislation you would not come under the Labour Relations Act.

MISS REID: Mr. Chairman, we understand that.

MR. MacDONALD: What was the text of the resolution passed by your Annual Meeting regarding the need or the desire of a stronger collective bargaining policy?

THE CHAIRMAN: That is the resolution referred to in Miss Steele's brief.

MR. MacDONALD: I understand it was at the

1956 Annual Meeting.

THE CHAIRMAN: "At the Annual
"General Meeting of the Association
"in 1956 the members voted that the
"Board of the Association be directed
"to study means for setting up
"collective bargaining facilities."

That is what Mr. MacDonald is inquiring about; the text of that resolution.

DR. GRAY: May I speak very briefly to that: The fact is that the Association had been studying this problem for some time and in the course of that study had set up a very large fact-finding survey which has been completed. It is quite true at their Annual Meeting, the last Annual Meeting, this Committee had not been appointed and there was no reason to believe there was going to be any urgency about coming to a final decision about what type of collective bargaining would be best suited to the Registered Nurses' Association. Therefore, at that meeting various types of collective bargaining were presented to the general membership Committee and discussion included compulsory arbitration such as exists for firefighters and police officers and the prevailing system for school teachers was presented in detail. The situation under the Labour Relations Act was discussed and no final decision was reached at that meeting of the general

membership because it was felt the decision could be postponed for a year. In the meantime, this Committee was appointed and the Board of Directors of the Association held a special meeting. They felt it was their duty to come here before you because if they did not come now this Committee might, quite properly, say you had your chance and you did not avail yourself of it.

MR. MacDONALD: The point in my mind, did the resolution that was passed at the Annual Meeting specifically exclude exploring means of collective bargaining under the Labour Relations Act? To put it more positively: Did they say they should seek means of collective bargaining outside of the Labour Relations Act, specifically so?

DR. GRAY: At the Annual Meeting the Committee reported progress and stated their intention to continue the study of all types of collective bargaining for another year and that is what they would have done but this Committee has since been appointed and the Board of Directors felt they should appear before you and put this particular brief in your hands. I do not want to speak at great lengths but I think it is misleading to say only a limited number of nurses belong to the Association. While that is true in one sense, the fact is the government of Ontario authorized this Association to represent and act on behalf of all Registered Nurses,

the whole 28,000 of them, by statute. There is no other body in Ontario that could speak for this group.

THE CHAIRMAN: While there are only 16,000 who are active members of the Association, the Association represents all Registered Nurses.

DR. GRAY: That is correct, by statute.

MR. MacDONALD: I assume that, whatever validity there may be in them, the protests of these people arise from the fact the Board has laid down a decision that if there is going to be collective bargaining it will be outside of the Act; that is your recommendation.

THE CHAIRMAN: In the Annual Meeting's recommendation directed towards the study of collective bargaining they did not say whether it was to be inside or outside the Act.

DR. GRAY: It did not come to any final decision at all, that is correct. Mr. Chairman, the President tells me that there are 19 directors of this Association and 18 of them voted in favour of this brief. There was one dissenting voice and it is that director ---.

THE CHAIRMAN: Is that Miss Steele?

DR. GRAY: Not Miss Steele, but all the letters you have received come from the same source, the same dissenting director. I think you should know that.

MR. MACAULAY: How is your Board of Directors selected or elected?

MISS WALKER: Our Board of Directors is really a very democratic Board. We have a president, a past president, and two vice-presidents on the Board. We have the chairmen of six separate committees and the presidents of twelve districts. Our Association is divided into twelve districts which are regional districts. Presidents are elected by their own district and come and represent that district on our Board. Two officers are elected by a mail ballot which is sent to all members of the Association. The standing committee, chairmen are appointed by the elected members of the Board.

MR. MACAULAY: Is Campbellford and Cobourg in the same district?

MISS WALKER: I cannot say positively they are in the same district but they are very close together.

MR. MACAULAY: Is the member of the Board who represents the area of Campbellford or Cobourg the person on the Board who dissented?

MISS WALKER: Yes, sir.

MR. MACAULAY: And is she connected with the Campbellford Hospital?

MISS WALKER: No, she is a public health nurse.

THE CHAIRMAN: What is her name?

MISS WALKER: Mrs. Julia Roberts.

MR. MACAULAY: Mr. Chairman, have you received a letter from Mrs. Julia Roberts?

THE CHAIRMAN: No, we have not.

MISS WALKER: But you may have seen some newspaper publicity.

THE CHAIRMAN: All these letters seem to be couched in the same language.

MR. MACAULAY: There has been a master copy sent around at some time.

MR. WREN: There has been some objection voiced by some nurses which I have seen in newspaper releases in which they suggest they might not get the best representation possible if the Registered Nurses' Association acted for them because the Registered Nurses are, as I think it was suggested in one of these letters, that most of the nurses in the Association are nurses who are in supervisory positions. Is that true or not?

DR. GRAY: May I comment on that: That might be true but they are elected by the membership at large. If the membership at large happened to select senior nurses to represent them, that is their democratic right. They are elected by the membership at large.

MR. YAREMKO: Just to clear the picture in my mind: Would it be correct to say that senior nurses who are members of the supervisory staff of

a hospital have a good deal of control over, if I may use the expression, working nurses; that is the nurses on the floor who have no supervisory status. Do supervisory nurses exercise discipline, report on behaviour and things of that kind in respect of nurses who are on, say, floor duty?

DR. GRAY: I would answer that, yes; but I would defer to the knowledge of the senior nurses here who can speak at firsthand.

MISS REID: Yes, Mr. Chairman, just as in a supervisory capacity in any organization. Not any more so.

MR. YAREMKO: They would be comparable, would they, to a foreman in a shop.

MISS REID: I should think so.

MR. MACAULAY: That is a strange analogy: Would they be comparable? I can point out a few differences, if you cannot see them Mr. Yaremko.

THE CHAIRMAN: You consider yourself as a semi-professional staff or a professional?

MISS REID: Professional.

MR. JACKSON: In your brief you mention you are not opposed to the formation of unions and that would lead one to draw the conclusion that your problem would be answered if there was a nurses' union; yet further on in your brief you say you must remain neutral and objective. Which conclusion shall I draw? Shall I say you do not want any union,

as such, and I am using the term quite loosely or that/ you do
not even want a nurses' union? Are you opposed to
even a nurses' union?

DR. GRAY: I suppose you could call this a
nurses' union, the Registered Nurses' Association.

MR. JACKSON: Have you agreements as such?
Your Association would not enter into any collective
bargaining agreement with any hospital or municipal
authority.

DR. GRAY: Up to this time, no, but they
have been asked on a number of occasions that have
been set out in this brief to come into the picture
and bargain collectively on behalf of nurses with
their employers but there have been no written collec-
tive agreements.

MR. JACKSON: If your Association decided
to take that on and actually form a nurses' union
your problems would be solved, I assume.

DR. GRAY: By that do you mean that this
Association would then act as the bargaining agent for
its members?

MR. JACKSON: Yes.

MR. MacDONALD: That, in essence is what
Miss Steele's letter suggests by a comparable
Association or Nurses' Association be designed to
bargain as a bargaining agent.

MR. YAREMKO: Mr. Chairman, what I should
like to know is this: Where an Association is called

in on behalf of nurses, has the objection been that the nurses do not want to belong to a union or was it, rather, and this is my impression, that they do not want to be compelled to join a union in which they would be grouped with others not of a professional class. My feeling was that their objection was that they did not want to be in the same bargaining unit as, my friend on my left says, the elevator man. Which type of objection has it been? Has it been an objection to the inclusion with others not of their own professional class or an objection to being unionized altogether. That is not clear.

MISS REID: May I speak: At no time have we based it on as if it were snobbery. We have based our decision on the fact that we feel that we should have the liberty, the right, the freedom to bargain for ourselves, to speak for ourselves in employer-employee relationship.

MR. MacDONALD: May I pursue that specific point a little further: In essence, you have had that right up to now and for the most part it has been exercised outside of the Labour Relations Act. You say in one instance, at least, the nurses were compelled to join the union notwithstanding the fact that they did not wish to join. In this morning's Financial Post on page 28 a breakdown of average income groups and listed 15 or 20 categories and the bottom one happened to be the nurses with an

average salary of \$2,180.

---(This figure was later checked and found to be \$2,880).

In the light of the bargaining rights up to now, for the most part outside of the Labour Relations Act, they have not been very effective. Is that not the basis of the protest that emerged in the resolution in your Annual Meeting?

DR. GRAY: Mr. Chairman, I think there is a great deal of force in Mr. MacDonald's comment in that this Association is not satisfied at all with their present status so far as collective bargaining and that is the very reason they are taking active steps to try and provide some better procedure but they do not believe, rightly or wrongly, that the Labour Relations Act is the answer for them. They believe whatever procedure is devised would have to be a better one than joining a union through the Labour Relations Act.

MR. MacDONALD: In point 4, page 2 you say: "It is the Association's considered opinion that affiliation with trades and labour unions cannot offer to nurses the understanding and the strength that they have in their own profession". Quite frankly, up to now, on this point of collective bargaining you have not had strength; you have not had results; maybe one falls into the other. My real

question arises out of the point at the top of page 2 (2). Can you give me some specific instances as to where you feel there would be a conflict of loyalty as between what may be the ethics and obligations, and what not, of a nursing association and those in a union.

DR. GRAY: One example comes to mind, in one large hospital in Ontario within the last few years there was a serious threat of strike on the part of the union which represents the employees. It so happened the nurses did not belong to the union in this instance but, supposing, they had belonged to the union? What would their position have been if the strike had proceeded?

MR. MacDONALD: Let us take this one example one step further: I should think, if I assess correctly the feeling of the Committee, that this is certainly something that should be given serious consideration because it falls into the category of firemen and policemen where strikes have consequences on the community. If you were, specifically, denied the right to strike but given as an alternative to that compulsory arbitration with Committees, would that satisfy you to a point where you would be willing to consider being included in a union; if your main objection is to a strike.

DR. GRAY: I think I can speak for the group here today and say yes, provided the Registered

Nurses' Association were authorized to represent the nurses in that compulsory arbitration procedure. Mind you, we have no mandate from the Board of Directors or the members to make that commitment but so far as those who are here today the answer is, yes.

MR. MacDONALD: In other words, you would want the Nurses' Association to be unionized rather than be included in a prior union involving other employees?

DR. GRAY: Perhaps I misunderstood your question: I thought your question was whether this Association would favour compulsory arbitration as an alternative to the strike and the answer to that is yes.

MR. MacDONALD: Your answer is still on the premise of excluding nurses from any other union other than the union arising out of the Registered Nurses' Association.

DR. GRAY: That is correct, with the proviso that this Association would act on behalf of nurses in compulsory arbitration.

MR. JACKSON: We had a brief yesterday from the Ontario Hospital Association who advocated the inclusion in a group such as yours of nurses' assistants or nursing assistants, I have forgotten exactly. I assume your Association would not have anything to do with that group.

DR. GRAY: I think, perhaps, that is not putting it quite accurately. The Registered Nurses'

Association has done everything to foster and assist the development of the certified nursing assistants to the point where they hold meetings in the Registered Nurses' Building and some of the officials of the Registered Nurses' Association have been helping them to develop their organization. I do not know whether, ultimately, they would prefer to have their own organization represent them or they might prefer to have this association represent them.

MR. MacDONALD: But, as a matter of fact at the moment you are not authorized to represent them.

DR. GRAY: No, we are not, sir.

THE CHAIRMAN: Is there anything else, gentlemen; page 3, page 4 and the summary.

We want to thank you very much for having presented this brief to us and you can be sure it will receive our utmost consideration.

Mr. Perkins, I think it would be well to answer these letters and tell these people they can come before us if they so desire.

MR. MACAULAY: And would it not also be well to indicate to them that their letters had been read?

THE CHAIRMAN: Yes, Mr. Perkins, will you indicate to them that their letters had been read to the Committee?

MISS REID: Thank you, Mr. Chairman, and members of the Committee for your kind hearing.

THE CHAIRMAN:

We are next going to hear the brief submitted by The Canadian Physiotherapy Association. Mrs. Kathleen MacPherson, Mrs. Curtis Millar and Mr. K. Duncan Finlayson are in attendance. Who is going to read the brief?

MR. FINLAYSON: Mrs. Millar will read the brief.

---(Mrs. Millar reads brief submitted by The Canadian Physiotherapy Association).

THE CHAIRMAN: Thank you very much, Mrs. Millar. Gentlemen, are there any questions arising out of page 1?

MR. MACAULAY: Mr. Chairman, this brief is so similar to the one before it that I would like to ask a couple of questions. Mrs. Millar, how many members of your organization are there in Ontario?

MRS. MILLAR: In The Canadian Physiotherapy Association there are 352.

MR. MACAULAY: How many are there in Ontario?

MRS. MILLAR: 445.

MR. MACAULAY: Do they all belong to your Association?

MRS. MILLAR: They cannot all belong to the Association because they do not qualify on the grounds of professional training.

MR. MACAULAY: Then there are some who

do not have the standard recognized by your Association, is that so?

MRS. MILLAR: They are, mostly, people who were organized in the province before the Physiotherapy Association came into being. They are represented by the Ontario Society of Physiotherapy with whom we work very closely and who have also supported this brief; they have read it and supported it.

MR. MACAULAY: A great deal has been made of the point in your brief and others in relation to the principle of union membership.

MRS. MILLAR: That is so.

MR. MACAULAY: Was it based on union membership as such or based, separately or jointly, as being part of a union including others than physiotherapists and nurses.

MRS. MILLAR: It was based on union membership as such.

MR. MACAULAY: Does your Association bargain in any way on behalf of the physiotherapists?

MRS. MILLAR: Yes.

MR. FINLAYSON: If I might answer that on behalf of the members of the Association the experience that the Association has had as employers in the sense contemplated by the Act, that is, acting on behalf of employees is very, very limited. In fact, it is almost non-existent. They do deal with them, generally, that

is hospitals and hospital organizations, more or less on the basis of working conditions, to a large extent, but also on professional standards and qualifications, mainly. Their contest with Labour Relations matters is very limited.

MR. MACAULAY: Are there not physiotherapists on staffs in hospitals and thus, in effect, employees of hospitals?

MR. FINLAYSON: Yes, they are.

MR. MACAULAY: Then would that not come under the heading of employer-employee association?

MR. FINLAYSON: But the Association has never bargained in the sense contemplated in the Act with any employer.

MR. JACKSON: Then ~~what~~ do you mean by "successfully negotiated with hospitals and employing agencies in respect of physiotherapists".

MR. FINLAYSON: What the members of the association contemplated there was not bargaining in respect of wages in the sense normally expected in union practice.

MR. MYERS: Are physiotherapists in hospitals paid on a fee basis?

MRS. MILLAR: They are paid on a salary basis.

MR. MacDONALD: Is it not correct to say that your chief worry in the conflict of loyalties between your organization and the union arises out of

the possibility of a strike?

MRS. MILLAR: Yes.

MR. MacDONALD: Are there any other areas in which you envisage a conflict as between the loyalties of your association and the loyalties any member might have if they join a union.

THE CHAIRMAN: They are both closely allied with the medical profession.

MRS. MILLAR: I think it is a loyalty to a profession and not to an association.

MR. MacDONALD: Pursuing what Dr. Gray has just said, all professional organizations who so far have appeared before us, the chief argument advanced in support of the potential or active conflict of loyalty is the one that would emerge if there was a strike.

MRS. MILLAR: Yes.

MR. MacDONALD: I am curious to know if it is felt in these professional organizations if there is a conflict beyond this possibility of a conflict created by a strike.

MR. FINLAYSON: May I try and answer that, Mr. MacDonald, by saying, in a general way of course, the brief we are presenting is very similar to the brief presented by the nurses who preceded us. However, we feel there is a distinction in the role played by the physiotherapists and nurses in a hospital. The nurses are concerned, primarily, with

the care of the patient and physiotherapists, administratively and actually, deal with the treatment under the supervision of doctors, qualified medical practitioners. We do not want it to be taken in any way that we are minimizing the role of any group or any individual in a hospital organization as opposed to our own but we feel the role played by the physiotherapists is unique and distinct from the role of other groups of people in hospital organizations. There is also, we feel, a very high standard of training required. There is a three-year University course required for admission to the Canadian Physiotherapists' Association whose members staff, I think it is fair to say, well over 90%, that is almost entirely staff institutions that employ nurses and other medically trained people. There is a sort of professional feeling with the physiotherapists about their calling which, I think, is justified in the light of training and experience. This, we feel, sets the physiotherapists apart from other groups in a hospital and if I might say so, just to conclude briefly, there is a strong sense of professional loyalty, a sense of professional ethics which, I think, may go some way, sir, to answer your questions.

MR. MacDONALD: The original portion of your answer sort of envisaged physiotherapists as working under the direction of doctors pretty closely.

MR. FINLAYSON: Yes.

MR. MacDONALD: Is there not a proportion

who are out on their own and, therefore, not directly working with the doctor?

MRS. MacPHERSON: I would say every physiotherapist, by reason of her being a professional physiotherapist, works under the direction of the doctor. There is always a connection between the medical man and the physiotherapist before a patient is treated even by a physiotherapist in private practice or in clinics or anywhere. We still have to take direction from the medical practitioner.

THE CHAIRMAN: That is, the patient is referred to you.

MRS. MacPHERSON: It is on a referral basis.

MR. MacDONALD: In that sense you are somewhat different from nurses. Nurses can operate on their own, to a degree.

MR. FINLAYSON: Bear in mind it is the difference between care and treatment; it does help to distinguish the services.

MR. YAREMKO: Going back a moment to when Mr. Finlayson was talking about the Association bargaining on behalf of the physiotherapists, I would gather that would be in a very general way. It would be as to the standard to be maintained or, largely, to be obtained throughout the province on behalf of no one, specifically.

MR. FINLAYSON: That is right.

MR. YAREMKO: I still fail to see how, if a group of physiotherapists, by themselves, un-associated with any other group within a hospital wish to form a union in which they are full masters of their own fate, how could any conflict arise? Would there be any lessening of their professional loyalty or any lessening of their loyalty to the patient just because they are members of a group who are working together instead of individually?

MR. FINLAYSON: Well, sir, I think, basically the Association objects to the idea of collective bargaining in the sense contemplated by the Act. If there has to be an Organization, and, in many ways it is desirable there should be an organization which can bargain or speak for the physiotherapists as a whole, if there is to be such an organization, we take a position similar to the nurses who preceded us. We feel that organization should be The Canadian Physiotherapists Association.

MR. WREN: Why could you not sign your members up and make application to the Labour Relations Board for certification as a bargaining unit for themselves?

MR. FINLAYSON: I think the members feel that it would confer no advantage to the physiotherapists to operate in that way.

THE CHAIRMAN: The physiotherapists themselves do not express any desire to have it?

MR. FINLAYSON: There was an Annual Meeting in 1948 at which this whole subject, I am informed, was canvassed thoroughly and the Annual Meeting went on record as opposing the type of collective bargaining contemplated by the Labour Relations Act. There has been no contrary opinion expressed.

MR. YAREMKO: That was in 1948.

MR. JACKSON: If your association did become certified, as Mr. Wren suggests, am I correct, Mr. Chairman, that essentially no other group could come in there. You would, in fact, be an entity until yourself such as you desire and your own members could then not be joined with another union.

MR. MACAULAY: I think that is wrong. I think you have to be certified as to each institution, would you not? You could not set up a certified group for all physiotherapists. There would be a battle for jurisdictional recognition in the case of every single institution employing physiotherapists.

MR. MacDONALD: Supposing in a big hospital there were 10 physiotherapists to wanted to form their own body then they would get, in the terms outlined by Mr. Jackson, exclusive rights and nobody else could horn in on them, so to speak. Under those circumstances what would be your objection to the collective bargaining contained in the Labour Relations Act? You made that comment two or three

times.

MR. FINLAYSON: There is one practice which arises out of the practice under the Act where, if I may use the term, unions or organizations attempt to win the loyalty of the group who are already certified under one collective bargaining agent. Then you have a struggle between two groups within one organization such as a hospital. That, this association looks upon with disfavour.

MR. WREN: But if the Act were amended to provide that your provincial association only could be certified.

MR. FINLAYSON: It would have to be a Dominion Association.

MR. WREN: We have nothing to do with the Dominion.

MRS. MILLAR: It would have to be Provincial.

MR. FINLAYSON: There is only one Provincial Association. It is incorporated under Letters Patent. There are other bodies that come, presumably, under no Ontario Act.

MR. YAREMKO: Going back to the 1948 Legislation, it would appear to me to be passed at a time before the Labour Relations Board laid down, more or less, a policy of excluding physiotherapists from a bargaining unit within an institution. At that time, perhaps, the decision was not clear. Might it not have been that the physiotherapists

were concerned, as the nurses were, that they would be in a union which would be a heterogeneous group rather than have a trained professional group.

MRS. MILLAR: I think, Mr. Chairman, the discussion came up because of situations in various places in the country, not necessarily in Ontario, where it seemed that the physiotherapists were going to be compelled to become members of a union and it was on that basis the discussion arose and the decision was taken.

MR. WREN: Are any of your members voluntary or involuntary members of unions in Ontario now?

MR. FINLAYSON: Not to our knowledge.

MR. MACAULAY: In relation to Mr. Wren's question there are a few questions I would like to ask. Mr. Wren raised a point that has interesting possibilities. What if the provision in the Act stated that your Association could be certified as a bargaining agent under the Act? Would there be any objection if that were the case? Of course, in that case, you would have the possibility of decertification after ten months and you would get back into the possibility of the struggle.

MR. WREN: Mr. Finlayson, I have not read your constitution but are your members not already committed to the loyalty of your group?

MRS. MILLAR: To certain ethical practices,

you mean?

MR. WREN: Ethical and other purposes.

MR. FINLAYSON: In a sense it is analogous to and in many ways similar to the association of professional engineers, for example. The association has no disciplinary powers over the members in the practicing of their profession. Those powers are exercised by the Board of Physiotherapy under the Drugless Practitioners Act. In some ways there is a sort of professional loyalty to the association.

MR. WREN: You say on page 2 you have your own provincial act and regulations governing the practice of physiotherapy. Are you incorporated and covered by the Ontario Statute?

MR. FINLAYSON: The association as such is not recognized by the statute. The reference on page 2 is a reference to the Board of Physiotherapy under the Drugless Practitioners Act. The members on the Board are appointed by the Lieutenant-Governor. There are five members; three members of our association and two of the Ontario Society.

MR. MacDONALD: Your code of ethics at the moment does not specifically exclude the right to join the union? Am I correct?

MRS. MILLAR: There is nothing mentioned.

MR. MacDONALD: It is not even mentioned.

MR. WREN: Is a professional therapist permitted to practice in Ontario if they are not a

member of your association?

MRS. MacPHERSON: Yes, providing they register under the Drugless Practitioners Act.

MR. MYERS: Is there a wide range of remuneration; would a physiotherapist in one hospital get very much the same pay as one in another hospital? How is it set?

MRS. MILLAR: The Association publishes a minimum salary scale for the guidance of hospitals and employers and members.

MR. MYERS: Is that pretty well followed?

MRS. MILLAR: It is pretty well followed.

MR. MacDONALD: What is the minimum?

MRS. MILLAR: The minimum recommendation is \$2,180.

MR. MacDONALD: That puts you right in with the nurses.

MRS. MILLAR: The same as the nurses.

MR. MACAULAY: Going back to my second question: Is this \$2,180 a standard set by your association?

MRS. MILLAR: Yes, it is on the recommendation from the Salaries Committee to the National Executive Committee.

MR. MACAULAY: Are there not physiotherapists in this province you know of receiving anything less than \$2,180?

MRS. MILLAR: Yes, there are.

MR. MACAULAY: If there is a standard and there are people receiving less than the standard, what does the standard mean? It is just a rough guide for employers, is it?

MRS. MILLAR: Yes. The pressure that is brought to bear is, in many instances, the pressure of supply and demand.

MR. MacDONALD: The supply is limited and on that basis you should be getting \$5,000, \$6,000 or \$7,000.

MR. FINLAYSON: The supply is short. However, the people who do not meet the salary range and, I think, it is true with the Registered Nurses' also, are usually large hospitals in large centres.

MRS. MILLAR: Although there are members working for less than the minimum there are several people in this province who are receiving a great deal more than the maximum.

MR. MACAULAY: What is the maximum? You have set a minimum and do you set a maximum?

MRS. MILLAR: We do not set a maximum; we set a range from an assistant therapist to a director.

MR. MACAULAY: It is set as a guide, and what is the maximum?

MRS. MILLAR: About \$375 a month or about \$4,500 a year.

MR. MacDONALD: As a profession you

certainly do not get professional wages.

MR. WREN: The point that disturbs me about both these briefs we have here today and I do not for one moment doubt the sincerity of their purpose or high ideals but I was disturbed in hearing the nurses' brief where people in a supervisory position are doing the bargaining for the subordinates. In cases where they are getting less than the minimum, if you were taken right out of the Act altogether, what recourse for better treatment are these people going to have who are in subordinate positions and not being looked after? What recourse are they going to have for salary justice?

MRS. MILLAR: I think one should not talk only of people in subordinate positions being affected by salary incriminates; it affects the whole staff. When people in supervisory positions are discussing the matter of salaries with their hospital superintendents it is not only on the basis of their own personal needs but of the complete staff. It should also be pointed out that over the years the weight of the association in support of staff therapists has, in fact, pushed the salaries up considerably. If we had not negotiated, I would not like to think where they would be now.

MR. WREN: One more question: I do not want to get into your personal activities but what happens when a medical doctor refers a patient to you?

Do you base your services to them on a scale of fees and are those fees fixed at so much per day?

MRS. MILLAR: You mean in private practice?

MR. WREN: Yes, if you come to my home to give me home treatment, is that on a fixed schedule of fees?

MRS. MILLAR: There is also a schedule of fees for referral cases and it is recommended in different parts of the country that fees for private practice should be such and such.

MR. MYERS: When cases are referred to you by a medical practitioner does he tell you exactly what to do or is it referred to you and then you use your discretion within certain limits?

MRS. MacPHERSON: I think it may be one thing or the other. On some occasions the doctor will specifically state what he requires and in some cases he will ask us what he thinks would be the best treatment to give.

MR. MYERS: In the medical profession there are some surgeons who have a reputation for being exceptionally good and then there are some who have passed the same examination who are not nearly so good and I suppose it is the same with the physiotherapists.

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THE CHAIRMAN: Mr. Macaulay, you had a question. You have the floor now.

MR. MACAULAY: It is a whole series of them which constitutes one question.

First of all, give me a picture, will you, of a typical hospital as it relates to physiotherapy. Let me take, as an example, the Toronto General Hospital. How many physiotherapists are there there?

MRS. MILLAR: Twelve.

MR. MACAULAY: And who hires them?

MRS. MILLAR: I believe it would be the hospital staff on the recommendation of the doctor of physical medicine.

MR. MACAULAY: And who disciplines them?

MRS. MILLAR: I wouldn't know that. I would suggest it is the doctor of physical medicine in charge of the department.

MR. MACAULAY: And are they all in one department?

MRS. MILLAR: I am not sure what you mean by that question. Do you mean do they all work in one room?

MR. MACAULAY: You said the doctor in charge of the department. I am trying to find out how many doctors there are in charge of these twelve physiotherapists.

MRS. MILLAR: There would be one doctor

of physical medicine who would be in charge of the department of physiotherapy.

MR. MACAULAY: For whom they would work?

MRS. MILLAR: For whom they would work; but the cases come from other members of the staff.

MR. MACAULAY: I am not worried about the cases. I am thinking of the juxtaposition of the physiotherapists in relation to the hospital.

Who determines their salaries?

MRS. MILLAR: I suppose it is whoever in the hospital determines the salaries of the hospital staff, whether they are nurses, physiotherapists, or what they are.

MR. MACAULAY: And when each physiotherapist is engaged, as they must be from time to time, separately would they all be paid the same rate? You have twelve physiotherapists in the Toronto General Hospital?

MRS. MILLAR: Yes.

MR. MACAULAY: Are they all receiving the same salary?

MRS. MILLAR: No; they would be on a scale. The charge physiotherapist is one person who is in charge of the department so-called under the doctor of physical medicine. She would be receiving a charge salary; and they would be graded down to the person who comes in as a new physiotherapist straight from the university, with no

experience.

MR. MACAULAY: And what if they come in straight from some place else with a great deal of experience?

MRS. MILLAR: They should go on whatever is agreed that is appropriate.

MR. MACAULAY: The difficulty in your evidence is that you "presume" and you "assume." Are they, in fact, facts?

MRS. MILLAR: In some hospitals, yes.

MR. MACAULAY: But not necessarily in the hospital I selected?

MRS. MILLAR: Not necessarily.

MR. MACAULAY: There are twelve in the Toronto General Hospital. They work, presumably, in groups?

MRS. MILLAR: No.

MR. MACAULAY: There are groups of them in the institutions. Twelve, in my opinion, is a group. There are twelve in the Toronto General Hospital.

MRS. MILLAR: But I wonder if we are clear about this. You ask: Do they work as a group?

MR. MACAULAY: I do not mean, when I use the word "group," that there is somebody on the head and somebody on the feet. Are they employed, under a group heading, as physiotherapists in a hospital?

MRS. MILLAR: Yes.

MR. MACAULAY: Right. Now, then, what proportion of your profession are out on their own as single physiotherapists? I do not mean matrimonially! I mean operating by way of income?

MRS. MILLAR: Fifty-seven.

MR. MACAULAY: This is like sucking blood out of stone . . .

THE CHAIRMAN: I don't think so, Mr. Macaulay. It is the manner in which you are putting your questions. These people are not trying to withhold any information.

MR. MACAULAY: Fifty-seven are on their own. Does that mean that the balance of your 400-odd are employed in these groups?

MRS. MILLAR: Yes.

MR. MACAULAY: That is the point I am trying to establish. Of the groups is the largest one twelve?

MRS. MILLAR: No. The largest one would be the Workmen's Compensation Board, which would be twenty.

MR. MACAULAY: I see. Then, it sounds to me as though most of these people are in the position that they pretty well have to arrange their own salary for themselves -- be their own bargaining agents -- when they are engaged.

MRS. MILLAR: There is the interesting fact that, over the last few years, when hospitals

have been advertising for physiotherapists, which they do through the medium of professional journals, they add at the end of their advertisement "C.P.A. salary scale is paid."

MR. MACAULAY: That means a minimum of something and a maximum of . . . ?

MRS. MILLAR: Whatever it is.

THE CHAIRMAN: Is there anything further, gentlemen?

MR. YAREMKO: In this general group of twelve which you are referring to, how many different salary scales would there be -- in that group of twelve?

MRS. MILLAR: I can't answer that, I am sorry; but there might be three or four.

MR. YAREMKO: Three or four?

MRS. MILLAR: Yes; but I wouldn't like to answer definitely.

MR. MacDONALD: There is a pattern of collective bargaining in professional groups which I would like to explore with this witness if she has any comments on it. The teachers have the same kind of problem and they have authority, I think, across the country for establishing collective bargaining units through their organization. In some instances they have gone one stage further and strengthened that by joining organized labour in the area.

The thing that I am not certain of is this -- and I wonder if you have any information on it -- that when they do join and affiliate with organized labour do they come under the Labour Relations Act, or are they under their own Teachers Act?

MRS. MILLAR: I don't know that.

THE CHAIRMAN: You can't tell us?

MRS. MILLAR: Are they exempt under the Act as teachers?

MR. MacDONALD: Yes; but by affiliating with, say, the Provincial Congress of Labour or the Federation of Labour, that doesn't bring them under the Labour Relations Act?

MRS. MILLAR: I can't answer that.

THE CHAIRMAN: You don't know that either?

MRS. MILLAR: No.

THE CHAIRMAN: And you don't know, Mr. MacDonald. Nobody seems to know, including yourself.

A SPECTATOR: I understand -- don't tie me down -- that they are governed by both in the Teachers Act; they are governed by both in those provinces where they are affiliated with another organization.

THE CHAIRMAN: Any other questions, gentlemen? Mr. Jackson? Mr. Wren? Mr. Myers -- any further questions?

MR. MYERS: Do I understand you to say

that to be a member of your Association you must have a three-year university course?

MRS. MILLAR: Yes.

MR. MYERS: And be graduated?

MRS. MILLAR: Yes.

THE CHAIRMAN: Mr. Morningstar -- any questions?

Thank you very much, ladies. I can assure you that your brief will receive our very serious consideration.

I know the very valuable work that the physiotherapists do, because we have a very excellent one in our hospital in Renfrew.

We shall now hear from the Association of Ontario Land Surveyors.

The Association of Land Surveyors is represented by Mr. F. W. Beatty, the Surveyor-General of Ontario, Chairman of the Council of the Association -- who, incidentally, comes from Renfrew County, gentlemen -- Mr. W. H. Williams, President of the Association, Surveyor of the Hydro Electric Power Commission of Ontario, and Mr. W. S. Montgomery, Q.C., Counsel.

Who will be reading the brief?

MR. MONTGOMERY: I will be, Mr. Chairman.

---(Mr. Montgomery reads brief)

MR. MONTGOMERY: Now, along with this

brief the Committee has been furnished with a copy of the Land Surveyors Act, the bylaws of the Association of Ontario Land Surveyors, the regulations laid down by the Board of Examiners, which is a statutory body set up by the Land Surveyors Act, and with a sample of the examination papers showing the examinations which a surveyor has to pass before he is entitled to practise as an Ontario land surveyor under the Act.

In addition to the material that is submitted in the brief I would like to give you just a few figures before I go on.

There are 429 members in the Association. Our occupational records concerning our members are incomplete, but, to the extent that they are complete, 244 out of our total membership are in private practice as Ontario land surveyors. Ninety-two are in the employ of the Government -- various Government commissions -- and out of that 92 there are only three that are in industry. There are 93 whose occupations we are not sure of. Of the 92 who are in Government service and industry, 27 are in the employ of the Department of Highways, and, of course, are in the Civil Service of Ontario. Thirteen are employed by the Hydro Electric Power Commission of Ontario whose employees generally are organized in a union of their own which is called the Ontario Hydro Employees Union, and which is affiliated,

apparently, with the Canadian Labour Congress.

MR. MacDONALD: Are the 13 included in that union?

MR. MONTGOMERY: The 13 object . . .

MR. MacDONALD: But they are in?

MR. MONTGOMERY: . . . to being called upon to become members of this union.

MR. MacDONALD: But they are in?

MONTGOMERY: They are in. The Hydro takes the position that simply because land surveyors haven't been spelled out specifically in the Labour Relations Act, although it is a cognate profession to engineering, they are subject to the collective bargaining agreement which has been made by Hydro with the Hydro Employees Union, and they have to join or lose their jobs.

Eleven are in the employ of the Government of Ontario and are part of the Ontario Civil Service. Twenty-one are engaged by municipalities of various kinds and in various capacities, ranging all the way from Metropolitan Toronto to county and township engineers. One is engaged by the Niagara Parks Commission. One, Mr. Norman Wilson, of course, who is a very, very distinguished man, is the consultant to the Toronto Planning Board. Nine are in the service of the Dominion Government, mostly in the Department of Mines and technical surveys, and, of course, form part of the Civil Service of Canada.

One is the chief district surveyor of Canadian National Railways. Two are in the employ of the Bell Telephone Company. Two are in the employ of the International Nickel Company. One is in the employ of Falconbridge Nickel Mines. One is in the employ of the Ford Motor Company. One is the Professor of Civil Engineering at the University of Toronto. He is the head of the department. That is Professor Marshall. One is in the employ of the Abitibi Power & Paper Company.

There are 93 who are unknown to us because we haven't any records of them. A good many of them, of course, are people who have just been admitted to practise and we have no records in connection with them yet.

Of the total membership of 429, 130 are university graduates with the degree of Bachelor of Science, or its equivalent, which gives them the right, if they choose to exercise it, of becoming professional engineers. One hundred and thirteen have joined the Professional Engineers Society and are practising not only as Ontario land surveyors but also as professional engineers. Fifteen are members of the Engineering Institute of Canada.

THE CHAIRMAN: Are these overlapping, or separate?

MR. MONTGOMERY: These figures overlap. In other words, one of the 130 graduates will also

be one of the 113 professional engineers and may be one of the members of the Engineering Institute of Canada.

THE CHAIRMAN: Yes.

MR. MONTGOMERY: Of the Hydro 13, three are not only Ontario land surveyors but also professional engineers -- Mr. Ryerson, Mr. Roberts and Mr. Williams.

Now I will turn to the material which has been submitted to you.

The Land Surveyors Act is the descendant of an Act which was passed by the Legislature of Ontario in 1887, and the Incorporation Act which was passed in 1892 is to be found as Chapter 34 in the Statutes of Ontario of 1892.

The principle of the Land Surveyors Act is that it creates by special Act an Association which is similar in principle to the Law Society Act which governs the legal profession, and the Medical Act which sets up the Academy of Medicine and which governs the medical profession.

Section 2 of the Land Surveyors Act provides that "no person shall act as a surveyor in Ontario unless authorized to practise as a land surveyor according to the provisions of this Act, or so authorized before the passing thereof according to the laws then in force, and unless registered under this Act."

MR. MacDONALD: By that does it mean he has to be a member of the Association?

MR. MONTGOMERY: You can't practise as a land surveyor in Ontario unless you register under the Land Surveyors Act and are a member of the Association, just as you can't practise as a solicitor in Ontario unless you are a member of the Law Society of Upper Canada and enrolled as a solicitor in the Supreme Court.

MR. MacDONALD: You have got a closed shop?

MR. MONTGOMERY: It is closed tight.

MR. MYERS: Aren't there Dominion-supervised land surveyors?

MR. MONTGOMERY: There are Dominion-supervised land surveyors, but they are not qualified to practise in Ontario.

MR. MYERS: They are not qualified to practise in Ontario?

MR. MONTGOMERY: No.

THE CHAIRMAN: Have you got some more explanations, Mr. Montgomery?

MR. MONTGOMERY: Yes.

THE CHAIRMAN: Then, we will proceed in the usual manner, and I think the Committee should withhold its questions and comments until such time as Mr. Montgomery has concluded.

MR. MONTGOMERY: The affairs of the

Association, apart from matters which have to be referred to members at the annual meeting, such as the passing of bylaws, are governed by a Council of Management, which is provided for in Section 6 of the Act, and of which Mr. Beatty, who is appearing here today, is the chairman.

Then, Section 8 of the Act provides that the Association may pass bylaws for the government, discipline and honour of its members; the management of its property; the examination and admission of candidates for the study or practise of the profession; and all such other purposes as may be necessary for carrying out the objects of the Association.

Then, all members of the Association have the right to vote. That is provided for in Section 14, subsection (1).

Then, the Act sets up a separate statutory body for the qualification of candidates to enter the profession, called the Board of Examiners. That Board of Examiners is set up by section 19 of the Act, and each member of the Board, under the provisions of subsection (7) of Section 19, has to take an oath of office.

I should also have said that each surveyor has to be apprenticed to a practising surveyor for one length of time or another. If he is a university graduate, or its equivalent, his apprenticeship is short, just as in the case of the legal



profession where, if he is a university graduate, his apprenticeship is short. If he is not a graduate then his apprenticeship is longer.

Each member of the Board of Examiners, as I say, has to take an oath under which he has to sincerely promise and swear that he will faithfully discharge the duties of such office without favour or affection or partiality.

There is no question of excluding anyone who has passed his examinations. The Association is not an arbitrary body. If the candidate has, under Section 21 of the Act, fulfilled the statutory conditions -- that is, that he has attained the age of twenty-one years; has served his apprenticeship; has passed his intermediate examination; has passed his final examination; has paid his fees; has produced, if required by the Board, satisfactory evidence as to probity and sobriety; has entered into a joint and several bond to His Majesty in the sum of \$1,000, for the faithful performance of the duties of his office to be deposited in the office of the Treasurer of Ontario and enuring to the benefit of any persons sustaining damage by breach of the conditions thereof with two sufficient sureties to the satisfaction of the board or the chairman or secretary-treasurer thereof; has provided himself with a properly certified standard measure of length; and has taken and subscribed the

oath of allegiance and the following oath of office before the Chairman of the Board or a member thereof deputed by the Board for that purpose which said oaths of allegiance and office shall be deposited in the office of the Provincial Secretary -- and the wording is this:

"I,, do solemnly swear
 "that I will faithfully discharge
 "the duties of an Ontario Land
 "Surveyor according to the law,
 "without favour, affection or
 "partiality."

the Board shall grant a certificate authorizing that person to practise as a surveyor.

Then, under Section 34 a person registered under this Act

". . . shall be entitled to take
 "or use the name or title of
 "'Ontario Land Surveyor' and unless
 "so registered no person shall be
 "entitled to take or use the name
 "or title of 'Ontario Land Surveyor'
 "either alone or in combination with
 "any other word or words, or any
 "name, title or description implying
 "that he is registerexunder this Act."

Then, Section 36 is the disciplinary section which provides, in the first subsection,

"Where after due inquiry by
 "a committee of the Association,
 "appointed pursuant to its by-
 "laws . . ."

and if you look in the bylaws you will see that there
 is a disciplinary committee similar to what you have
 in the Law Society of Upper Canada --

". . . a surveyor has been found
 "to have been guilty of gross
 "negligence or of corruption
 "in the execution of the duties
 "of his office, or of profes-
 "sional misconduct or of conduct
 "apt to bring the profession into
 "disrepute, or where a surveyor
 "has been convicted in Canada or
 "elsewhere of an indictable offence,
 "other than a political offence
 "committed out of His Majesty's
 "Dominions, the council by order
 "may reprimand or censure such
 "surveyor or suspend him from
 "membership and from registration
 "for such time not exceeding one
 "year as the council may deem
 "proper, or may expel him from
 "membership and from registration."

Then, there is a right of appeal to a

Judge of the Supreme Court, in the same manner as there is from a report of a Master.

Section 12 of the bylaws deals with the discipline committee. Section 12 sets out the various committees. The third one mentioned in Section 12 is the Committee on Discipline. Then, Section 14(b) provides that

"the Discipline Committee shall
 "consist of the chairman of the
 "Council, the President and Vice-
 "President of the Association for
 "the time being, and two other
 "members of the Association to be
 "appointed in each year by the
 "Council."

Section 24 contains a number of **regula-**
 tions concerning the professional conduct of a
 surveyor; and subsection (g) of Section 24 provides
 that

"no member of the Association
 "shall make any fraudulent or
 "exorbitant charge for his ser-
 "vices, or make any charge for
 "his services which is apt to
 "bring the profession into dis-
 "repute."

And subsection (j) provides that

"Failure to observe any of

"the regulations contained in
"this Bylaw shall render a member
"liable to be disciplined in such
"manner as the Council may deter-
"mine, and, in proper cases, to
"suspension or expulsion from the
"Association."

Then, Schedule A to the certified copy of
the bylaws . . .

THE CHAIRMAN: What page is that on?

MR. MONTGOMERY: It follows page 14.

You will notice paragraph 10, which is
the last section in this tariff:

"The minimum salary of an Ontario
"Land Surveyor, who is employed
"at a salary, shall in no case
"be at a rate of less than
"\$3,300 per year."

As a matter of fact, even our "green"
people, who have just graduated under the present
rather tight conditions, are making approximately
\$425 a month.

MR. ROWNTREE: Perhaps, Mr. Montgomery,
you need revision of the tariffs.

MR. MONTGOMERY: Well, after all, you
have to remember that there is a difference between
professional people and work people, and the
intrinsic difference is that professional people

are not consistently trying to work for more. The question of what they give in return for what they get is not a paramount consideration in professional work.

THE CHAIRMAN: Is there anything else you want to direct your attention to, Mr. Montgomery?

MR. MONTGOMERY: I don't think so.

MR. ROWNTREE: May I, Mr. Chairman, direct a question to Mr. Montgomery?

THE CHAIRMAN: Yes.

MR. ROWNTREE: I think, Mr. Montgomery, this might be the appropriate place in the hearings of this Committee to make one observation -- and this has to do with Section 36 of your Act -- the Ontario Land Surveyors Act: I note that there is included in it a disciplinary section.

MR. MONTGOMERY: That is right.

MR. ROWNTREE: So that it is not just a question of getting a certificate and then carrying on forever with it?

MR. MONTGOMERY: No.

MR. ROWNTREE: There is a continuing responsibility, legally, morally and professionally?

MR. MONTGOMERY: Just like the lawyers.

MR. ROWNTREE: I raise this with you -- and I don't mean to speak at length on it -- because I think it is a factor that applies to certain other groups of quasi or professional people who might be

regarded as of the same level as the surveyors, and that is that any failure to have that disciplinary clause would be a big weakness in your case.

MR. MONTGOMERY: But we have it.

MR. ROWNTREE: Does it function?

MR. MONTGOMERY: Oh, yes. In fact, the president has in his hands right now a notice of complaint to be filed and a subpoena to be issued under the provisions of Section 37 of the Act, to deal with one case up in Ottawa where . . .

THE CHAIRMAN: I don't think we should go into that.

MR. ROWNTREE: But that aspect is in operation?

MR. MONTGOMERY: Very much so. It is quite a going concern.

MR. MYERS: I think Mr. Montgomery has omitted only one thing to show that the profession is really a profession, and I would ask: Are the surveyors allowed a witness fee as professional witnesses in cases in court?

MR. MONTGOMERY: Oh, yes.

THE CHAIRMAN: Yes, definitely; they insist on it!.

MR. MYERS: There are only a few professions allowed professional witness fees.

MR. WREN: I think it is obvious that these people should be classified as engineers.

They work entirely in the engineering field.

THE CHAIRMAN: As a matter of fact, they usually insist on more than the Supreme Court tariff allows for fees!

MR. MONTGOMERY: The surveyor's work really underlies the engineer's work. In other words, to take the building of the Bank of Nova Scotia, the surveyor determines where the corner of King and Bay is, and determines the street line of King and where the street line on Bay is and where the back lines are. Every piece of stone that goes into that building and every piece of steel that goes into that building is pre-cut and brought onto the job. If the surveyor makes a mistake it is too bad.

MR. WREN: If there is no doubt in the interpretation of the Act.

THE CHAIRMAN: Speaking for myself, I think that you have made a very strong case.

I don't know if any members of the Committee have any further questions?

MR. YAREMKO: In the instance of the Hydro employees, was that a decision of the Ontario Labour Relations Board that they be included in the bargaining unit?

MR. MONTGOMERY: No. I think it was the fact that someone in the higher reaches of the Commission read the Act Japanese-like and said: "No. Surveyors are not spelled out. It is quite true

they are cognate to the engineers and so on, but surveyors aren't mentioned. Therefore, I think surveyors have got to be unionized, or, at least, they have got to join the Hydro workers union."

MR. MacDONALD: Apart from surveyors involved in the Hydro union, or the Civil Service Association -- which, I assume, some of them may have joined -- there are relatively few who are actually attached to industry, and, therefore, liable, or in a position, to be involved in industry?

MR. MONTGOMERY: You can count them on less than the fingers of one hand. There may be a few more in the 93 that we don't know about.

MR. MacDONALD: Am I right, then, in saying that there are not more than a dozen, or fifteen, or twenty people . . .

MR. MONTGOMERY: Probably not that.

MR. MacDONALD: . . . who might become involved in a union and be forced to contribute to the union's security, or the check-off?

MR. MONTGOMERY: No surveyor, to my knowledge, has ever struck yet. And, of course, when they do strike you don't have to fix railway fares and so on.

MR. ROWNTREE: Is a surveyor part of management in the sense of a professional adviser, or is he strictly an employee?

MR. MONTGOMERY: He is not either part

of management or part of labour. He is an independent professional man who is hired as such; in other words, just like the legal department.

THE CHAIRMAN: He can get you into a lot of trouble and out of a lot of trouble!

MR. MacDONALD: Mr. Montgomery, has this brief been provoked, for the most part, by the decision in Hydro?

MR. MONTGOMERY: Yes. We have never had the question come up in any other form or shape.

There is one suggestion that I think I might make that might help this Committee, and it is in respect to the question of who is and who is not exempt from the provisions of the Labour Relations Act. It might be a good thing if it were all in one place, instead of the doctors and architects and the engineers being in subsection (a) of Section 3 and the teachers and the domestic servants and so on being in Section 2.

THE CHAIRMAN: That has already been suggested.

MR. MONTGOMERY: It might be a good thing to have everybody that the Act doesn't apply to in one section.

MR. MORNINGSTAR: The way the Act stands, that is the law, isn't it?

THE CHAIRMAN: It has often been questioned.

MR. MORNINGSTAR: Subject to the courts.

THE CHAIRMAN: It has often been questioned.

MR. YAREMKO: With reference to the employees of Hydro, supposing there had been Ontario land surveyors who wished to join a union, what then?

MR. MONTGOMERY: They have no such desire, and that question is purely academic, Mr. Yaremko.

MR. MacDONALD: I have no objection to the brief, but I want only to take a mild objection to one conclusion, and that is that people are satisfied with what they have got and will not seek more. I think a lot of professional people would take vital objection to that.

MR. MONTGOMERY: We have a variety of people among our ranks, but . . .

THE CHAIRMAN: If people start at \$425 a month maybe they are in that category.

MR. MONTGOMERY: Let me say this, that there are millions of dollars of legal work done in this province every year, for which no charge is made.

THE CHAIRMAN: I congratulate you on that remark. That is the fact, and the public doesn't know anything about it.

MR. MORNINGSTAR: When you have two surveyors acting for two different parties and they

don't agree, where do you go from there?

MR. MONTGOMERY: We go to court.

THE CHAIRMAN: Thank you very much, Mr. Montgomery, Mr. Beatty and Mr. Williams.

---The hearing adjourned at 1.05 p.m. to resume
Tuesday, October 29th, 1957, at 11.00 a.m.

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